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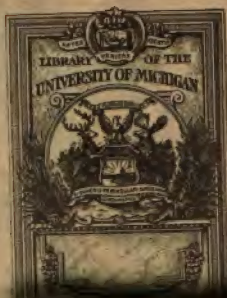
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OF THE
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FROM THE
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TO THE
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VOLUME the FIRST, from 1660, to 1697.

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P R E F A C E.

OUR Annals have hitherto contained little more than the Histories of Kings and their Ministers. The History of the Parliament, which is the History of the ENGLISH People, having been neglected. To supply that Defect, therefore, as far as the Waste of Time will give leave, is one of the most effectual Services, that in the Way of Record can be done to the Public; and as such, no doubt, will be received in After-Ages, when from these Collections they shall derive the double Advantages of Precedents and Warnings.

For this Reason, if the Transactions of the COMMONS had not been already set forth, with all the Care, Fidelity, and Exactness, that so great a Work would admit of, in Mr. *Chandler's* History; this Undertaking

P R E F A C E.

ing would have been composed jointly of the Proceedings of both Houses; but as they have render'd one Half of our Original Design unnecessary, those of the LORDS became our only Province, which we have endeavour'd to make good by, all the Researches in the Power of private Men to make.

And that no Advantage might be wanting, we have connected this Account of the LORDS with Mr. *Chandler's* History of the COMMONS, illustrated it with many useful explanatory Notes, and interwove it, till the Reach of our own Memories, with an Abstract of the most material Occurrences of the Times, by way of Link between Session and Session.

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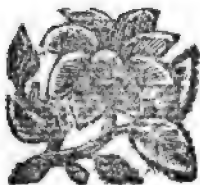
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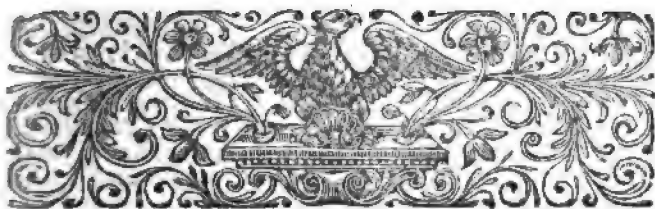
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T H E
HISTORY and PROCEEDINGS
OF THE
HOUSE of LORDS,
WITH THE
DEBATES and PROTESTS therein,
From the Restoration to the Death of Queen ANNE.

CONVENTION-PARLIAMENT.



UPON *February* the 5th, 1649, the House of Peers had been voted, by the Commons; useless and dangerous; in consequence of which they were afterwards, by a * Bill, abolish'd in Form; and *April* the 25th, 1660, being the first Day of the Meeting of the Convention-Parliament they were restor'd; in which Interval several Lords had condescended to sit in the

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A Lower

* The said remarkable Bill was conceived in these Words: 'The Commons of England assembled in Parliament, finding, by too long Experience, that the House of Lords is useless and dangerous to the People of England to be continued, have thought fit to ordain and enact, and be it ordained and enacted by this present Parliament, and by the Authority of the same, That from henceforth the House of Lords in Parliament shall be, and is wholly abolished and taken away; and that the Lords shall not from henceforth meet or sit in the House called the Lords House, or in any other House or Place whatsoever, as a House of Lords; nor shall sit, vote, advise, adjudge, or determine of any Matter or Thing whatsoever, as a House of Lords in Parliament: Nevertheless it is hereby declared, That neither such Lords as have demeaned themselves with Honour,

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Lower House, as Representatives of the People, as by an express Proviso they were permitted to do.

The Restoration of the Lords furnish'd a strong Presumption that that of the King was not far off; tho' † *Monck*, not only, on many solemn Occasions to the great Men of that Time, but in several Writings and Speeches, had most explicitly declar'd against a Monarchy, and for a Commonwealth; of which let the two following Pieces remain upon Record to all Eternity.

Most honoured and dear Friends,

Monck's Letter to the Gentlemen of Devonshire, read in Parliament, Jan. 26, 1659.

' Meeting with a Paper dated at *Exon* the 13th instant, directed to *W. Lenthall*, Esq; Speaker of the Parliament, and subscribed by divers of my Friends and Relations, purporting the recalling the Members seclused in 1648, as the best Expedient for establishing these Nations upon a Foundation of lasting Peace, I have taken the Boldness from my Relation to some of you as allyed, and my affectionate Respects to all of you as dear Friends and Countrymen, to represent to your Consideration my present Apprehensions of the State of Affairs here, in order to all our better Satisfaction; wherein I humbly crave your Leave of Freedom without Prejudice.

' Before these unhappy Wars, the Government of these Nations was Monarchical in Church and State: These Wars have given Birth and Growth to several Interests both in Church and State heretofore not known, though now upon many Accounts very considerable, as the *Presbyterian*, *Independent*, *Anabaptist*, and *Seſtaries* of all sorts, as to Ecclesiastics; and the Purchasers of the Kings, Queens, Princes, Bishops, Deans and Chapters, and all other forfeited Estates, and all those engaged in these Wars against the King, as to Civils. These Interests again are so interwoven by Purchases and Inter-marriages, and thereby forfeited, as I think upon rational Grounds it may be taken for granted, that

no

nour, Courage, and Fidelity to the Commonwealth, nor their Posterities, who shall continue so, shall be excluded from the public Councils of the Nation, but shall be admitted thereunto, and have their free Vote in Parliament, if they shall be thereunto elected, as other Persons of Interest elected and qualify'd thereunto ought to have.

' And be it farther ordained and enacted by the Authority aforesaid, That no Peer of this Land, not being elected, qualify'd, and sitting in Parliament as aforesaid, shall claim, have, or make use of any Privilege of Parliament, either in relation to his Person, Quality, or Estate: Any Law, Usage, or Custom to the contrary notwithstanding.'

† Afterwards Duke of Albemarle, Knight of the Garter, and Commander in Chief of the Forces, both by Sea and Land.

no Government can be either good, peaceful, or lasting to these Nations, that doth not rationally include and comprehend the Security and Preservation of all the aforesaid Interests both Civil and Spiritual, I mean so far as by the Word of God they are warranted to be protected and preserved.

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‘ If this be so, then that Government, under which we formerly were both in Church and State, *viz.* MONARCHY, cannot possibly be admitted for the future in these Nations; because its Support is taken away, and because it is exclusive of all the former Interests both Civil and Spiritual, all of them being incompatible with Monarchical Uniformity in Church and State thus-expired.

‘ That Government then that is most able to comprehend and protect all Interests as aforesaid must needs be REPUBLICQUE.

‘ Wherefore to me it is no small Doubt, if, upon the Premises, to admit of the Members seclused 1648, were not to obstruct our Peace and continue our War, rather than establish the one, and end the other; in that very many of those Members assert the Monarchical Interest, together with the Abolition of all Laws made since their Seclusion, which I fear, upon account of Self preservation both of Life and Estate, as well as spiritual Liberty, will immediately involve all these Nations in a most horrid and bloody War afresh; the very Apprehensions whereof, I confess, I do infinitely dread; and submit the dangerous Consequence thereof to your prudent Considerations; and the rather, seeing the Army also will never endure it.

‘ Having thus briefly laid before you the present Condition of Affairs, let me now intreat you to consider whether it were not better to desist from that Paper, and submit to the Proceedings of this Parliament, who have resolved to fill up their House, determine their sitting, and prepare a Way for future Successions of Parliament; by which Means being full, and thereby comprehending the whole Interest of these Nations, they may, through God’s Mercy and all our Patiences, establish such a Government in the Way of a Commonwealth, as may be comprehensive of all Interests both Spiritual and Civil, to the Glory of God, and the Weal and Peace of the whole.

‘ But if, by your Impatencies, they be obstructed, our Peace will be so much the longer a Stranger to us, and we thereby become a Prey to ourselves and all foreign Enemies.

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‘ Wherefore, humbly pressing these upon your serious Considerations, with all friendly and affectionate Respects and Service to you all, I remain,

Dearest Friends

Your very humble

and affectionate Servant,

GEORGE MONCK.

Leicester, Jan. 21,

1659.

For the Honoured Robert Rolles, Esq; to be communicated to the Gentlemen of Devonshire, who signed the Letter to the Speaker of the Parliament of the Commonwealth of England.

The SPEECH of his Excellency the Lord General Monck, delivered to the Members of Parliament, met at *Whitehall* on Tuesday the 21st of February, 1659.

Gentlemen,

Speech to the
Members at
Whitehall.

‘ You are not, I hope, ignorant, what Care and Endeavours have been used, and Means essayed, for healing the Breaches of our Divisions amongst ourselves, and that, in order thereunto, divers Conferences have been procured between you, tho’ to small Effect; yet, having at length received fuller Satisfaction from those worthy Gentlemen that were secluded than formerly, I was bold to put you all to the Trouble of this Meeting, that I might open myself to you all, even with more Freedom than formerly: But, lest I might be misapprehended or mistaken, as of late it befel me, I have committed to writing the Heads of what I intended to discourse to you, and desire it may be read openly to you all.’

The DECLARATION of his Excellency the Lord General Monck.

Gentlemen,

His Declaration

‘ It appears unto me, by what I have heard from you and the whole Nation, that the Peace and happy Settlement of these bleeding Nations, next under God, lyeth in your Hands. And, when I consider that Wisdom, Piety, and Self-denial, which, I have Reason to be confident, lodge in you, and how great a Share of the Nation’s Sufferings will fall upon you, in case the Lord deny us now a Settlement, I am in very good Hopes there will be found in you all, such melting Bowels towards these poor Nations, and towards one another,

another, that you will become Healers and Makers up of all its woful Breaches. And, that such an Opportunity may clearly appear to be in your Hands, I thought good to assure you, and that in the Prefence of God, that I have nothing before my Eyes but God's Glory, and the Settlement of these Nations upon Commonwealth Foundations. In pursuit whereof I shall think nothing too dear; and for my own Particular, I shall throw myself down at your Feet to be any thing or nothing in order to these great Ends.

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'As to the way of future *Settlement*, far be it from me to impose any thing; I desire you may be in perfect Freedom; only give me leave to mind you, that the old Foundations are, by God's Providence, so broken, that, in the Eye of Reason, they cannot be restored but upon the Ruins of the People of these Nations, that have engaged for their Rights, in Defence of the Parliament, and the great and main Ends of the Covenant, for uniting and making the Lord's Name one in the three Nations: And also the Liberty of the People's Representatives in Parliament will be certainly lost; for if the People find, that, after so long and bloody a War against the King, for breaking in upon their Liberties, yet at last he must be taken in again, it will be out of Question, and is most manifest, he may, for the future, govern by his Will, dispose of Parliaments and Parliament-Men as he pleaseth, and yet the People will never more rise for their Assistance.

'And as to the Interests of this famous City, (which hath been in all Ages the Bulwark of Parliaments, and unto whom I am, for their great Affection, so deeply engaged) certainly it must lie in a Commonwealth; that Government only being capable to make them (thro' the Lord's Blessing) the Metropolis and Bank of Trade for all Christendom, whereunto God and Nature hath fitted them above all others.

'And as to a Government in the Church, the Want whereof hath been no small Cause of these Nations Distractions, it is most manifest, that if it be Monarchical in the State, the Church must follow, and Prelacy must be brought in, which these Nations I know cannot bear, and against which I have so solemnly sworn. Indeed, moderate Presbyterian Government, with a sufficient Liberty for tender Consciencies, appears to be the most acceptable way to the Settlement of the Church, &c.'

With what Sincerity *Monck* made these Declarations, the Sequel very sufficiently explains. Mr. *Lock*, on the Authority of Sir *Anthony Ashley Cooper*, afterwards Earl of *Shaftsbury*, insists that he had actually agreed with Mr. *Bourdeaux*,
the

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the *French* Embassador, to assume the supreme Government himself; of which the said Sir *Anthony* having received Intelligence, procured the Council of State, whereof he was a Member, to be summon'd immediately, and *Monck* attending as usual, Sir *Anthony* charg'd him, in an ambiguous and indirect Manner, with playing false with them, and not doing as he had promis'd: Which the other not only deny'd, but offer'd to give them all manner of Satisfaction — Of which Sir *Anthony* taking the Advantage, insisted on his new regulating the Command of the Army, upon the Spot, as it should then be required of him.—This *Monck*, not knowing how to avoid it, was obliged to comply with; by which means he disarm'd himself, and had no other Game to play than to close with the King's Offers by Sir *John Greenville*, for restoring the Royal Family.

As, therefore, the Convention met by his Permission, and as one may say, under the Influence of his Power, it is the less to be wonder'd that the Tide should turn with such Force in Favour of Monarchy all at once: Nor that the Lords, in particular, should receive his Majesty with open Arms is to be wonder'd at at all; since no King, no Peer, had prov'd as fatal a Truth, as no Bishop, no King: And that without the Umbrage of the first Estate of Parliament, there was no Security for the second.

Accordingly we find some of their first Transactions to be these, viz.

Tuesday, May 1. The House of Lords being informed that Sir *John John Greenville* attended at the Door with a Letter from h^s Majesty, the Earl of *Manchester*, Speaker of the House of Lords, went down almost to the Clock to receive it of him, which said Letter was then read as follows:

To the * Speaker of the House of Peers, and to the Lords there Assembled:

CHARLES REX.

The King's Letter to the House of Peers.

“ **R**ight trusty and right well-beloved Cousins, and right trusty and well-beloved Cousins, and trusty and right well-beloved, we greet you all well: We cannot have a better Reason to promise ourself an End of our common Sufferings and Calamities, and that our own just Power and Authority will, with God's Blessing, be restored to us, than that we hear you are again acknowledged to have that Authority and Jurisdiction, which hath always belonged

* Die Martis, 10 May, 1660. Ordered by the Lords in Parliament assembled, That his Majesty's gracious Letter and Declaration be forthwith printed and published, for the Service of the House and Satisfaction of the Kingdom.

JOHN BROWN, Cler. Parl.


" belonged to you by your Birth, and the fundamental Laws Anno 12, Car.
 " of the Land : And we have thought it very fit and safe II. 1660.
 " for us, to call to you for your Help in the composing
 " the confounding Distempers and Distractions of the King-
 " dom, in which your Sufferings are next to those we have
 " undergone ourself ; and therefore you cannot but be the most
 " proper Counsellors for removing those Mischiefs, and for
 " preventing the like for the future : How great a Trust
 " we repose in you for the procuring and establishing a
 " blessed Peace and Security for the Kingdom, will appear
 " to you by our enclosed Declaration ; which Trust, we
 " are most confident you will discharge with that Justice
 " and Wisdom that become you, and must always be ex-
 " pected from you ; and that, upon your Experience, how
 " one Violation succeeds another, when the known Rela-
 " tions, and Rules of Justice, are once transgressed, you
 " will be as jealous for the Rights of the Crown, and for
 " the Honour of your KING, as for yourselves : And then
 " you cannot but discharge your Trust with good Success,
 " and provide for, and establish the Peace, Happiness, and
 " Honour of King, Lords, and Commons, upon that Foun-
 " dation which can only support it ; and we shall be all
 " happy in each other : And as the whole Kingdom will
 " bless God for you all, so we shall hold ourself obliged
 " in an especial manner to thank you in particular, ac-
 " cording to the Affection you shall express towards us.
 " We need the less enlarge to you upon this Subject, be-
 " cause we have likewise writ to the House of Commons,
 " which we suppose they will communicate to you : And
 " we pray God to bless your joint Endeavours for the
 " Good of us all ; and so we bid you very heartily farewell.
 " Given at our Court at *Breda*, this 14th Day of *April*,
 " 1660, in the twelfth Year of our Reign."

The Thanks of the House were then ordered to Sir Votes thereon,
John Greenville, for bringing the said gracious Letter.

After which the House resolved, That they do own and
 declare, that according to the ancient and fundamental Laws
 of this Kingdom, the Government is, and ought to be by
 KING, Lords and Commons.

That the Lords, having a deep Sense of the Miseries and
 Distractions that this Kingdom hath been involved in since
 the violent Attempts to dissolve the established Government,
 do desire that some way may be considered how to make
 up these Breaches, to obtain the King's Return again to his
 People.

They desire, at a Conference, that a Committee of the
 House of Commons may be appointed, to meet with a Com-
 mittee

Anno 1^o, Car. II. 1660.  mittee of the Lords, to prepare such Things as may be in order to these good and necessary Ends, and to frame a Letter of Thanks and Acknowledgment to his Majesty for his gracious Letter and Declaration.

On the next Day the Lords resolved upon a Number of eight Lords to join with a Number of the House of Commons, to consider of an Answer to his Majesty's gracious Letter and Declaration, and to prepare some Things in order to what was mentioned in a Conference yesterday.

What was produced by this joint Committee, may be seen in CHANDLER's *History and Proceedings of the House of Commons*, Anno 12. Charles II. 1660, Page 11.

The 7th. The Commons, by Message, communicated a Vote they had pass'd, That the King be proclaimed Tomorrow, and desired the Lords Concurrence therein: To which the Lords reply'd, by Messengers of their own, That their King proclaim'd Lordships had likewise made an Order for proclaiming of his Majesty, King of *England, Scotland, France, and Ireland*, and agreed on a Committee, which they desired might meet with a Committee of their House this Afternoon, to consider of the Manner, Time, and other Circumstance to be observed therein.

For the Proclamation itself, see CHANDLER's *History and Proceedings of the House of Commons*, Anno 12. Charles II. 1660, Page 10. as likewise the Transactions of Parliament on the King's first Visit to the House of Peers, Page 16.

From this Time the Act of Oblivion seems to have engrossed the principal Attention of both Houses; and this the Commons, after having been quickened by a Message from the King, made short Work of, and sent up to the Lords; where it met with several Obstructions and Delays: The Commons had excepted only a few of the most notorious Regicides; whereas the Lords, who had suffered most, were for giving their Resentment a much larger Scope; to which they were the more easily induced, by the Petitions of several Widows and others, who had been most sensibly hurt in the late Troubles: This Severity of theirs not-suiting, however, with the Policy of the Times, his Majesty came to the House, July 27, and from the Throne expressed himself upon the Occasion as follows:

My Lords,

King's Speech
relating to the
Act of Oblivion

“ W H E N I came first hither to you, which was within two or three Days after I came to *Whitehall*, I did, with as much Earnestness as I could, both by myself and the Chancellor, recommend to you and the House of Commons, the speedy Dispatch of the *Act of Indemnity*,

" as a necessary Foundation of that Security we all pray for. Anno 12. Car.
 " I did since, by a particular Message to the House of II. 1660.
 " Commons, again press to hasten that important Work ;
 " and did likewise, by a Proclamation, publish to all the
 " Kingdom, *That I did with Impatience expect that that Act*
 " *would be presented to me for my Assent, as the most reason-*
 " *able and solid Foundation of that Peace, Happiness and Se-*
 " *curity I hope and pray for to myself, and all my Dominions.* I
 " will not deny it to you, that I thought the House of
 " Commons too long about that Work ; and therefore now
 " it is come up to you, I would not have you guilty of the
 " same Delay. I thank God, I have the same Intentions
 " and Resolutions now I am here with you, which I had at
 " *Breda* ; and believe that I owe my being here to God's
 " Blessing upon the Intentions and Resolutions I then ex-
 " pressed to have. I will read to you what I then said :
 " And to the end that Fear of Punishment may not en-
 " gage any, conscious to themselves of what is past, to a
 " Perseverance of Guilt for the future, by opposing the
 " Quiet and Happiness of their Country, in the Restoration
 " both of King, Peers, and People, to their just, ancient and
 " fundamental Rights ; we do, by these Presents, declare,
 " That we do grant a free and general Pardon, which we
 " are ready, upon Demand, to pass under our great Seal of
 " *England*, to all our Subjects of what Degree or Quality
 " soever, who, within forty Days after the publishing hereof,
 " shall lay hold upon this our Grace and Favour, and shall
 " by any public Act declare their doing so, and that they
 " return to the Loyalty and Obedience of good Subjects ;
 " excepting only such Persons as shall hereafter be excepted
 " by Parliament. Those only excepted, let all our Sub-
 " jects, how faulty soever, rely upon the Word of a King,
 " solemnly given by this present Declaration, That no Crime
 " whatsoever committed against us, or our Royal Father,
 " before the Publication of this, shall ever rise in Judgment,
 " or be brought in Judgment against any of them, to the
 " least Endamagement of them, either in their Lives, Li-
 " berties, or Estates, or, as far forth as lies in our Power, so
 " much as to the Prejudice of their Reputations, by any
 " Reproach, or Terms of Distinction from the rest of our
 " best Subjects ; we desiring, and ordaining, That, hencefor-
 " ward, all Notes of Discord, Separation, and Differences of
 " Parties, be utterly abolished among all our Subjects, whom
 " we invite and conjure to a perfect Union among them-
 " selves, under our Protection, for the Resettlement of our
 " just Rights, and theirs, in a Free Parliament ; by which,
 " upon the Word of a King, we will be advised.
 1660. B M₃

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II. 1660.

" *My Lords*, If you do not join with me in extinguishing
" this Fear, which keeps the Hearts of Men awake, and ap-
" prehensive of Safety and Security; you keep me from per-
" forming my Promise, which if I had not made, I am per-
" suaded neither I nor you had been now here: I pray let us
" not deceive those who brought, or permitted us to come to-
" gether. I knew well there were some Men, who could
" neither forgive themselves; nor be forgiven by us; and I
" thank you for your Justice towards those, the immediate
" Murderers of my Father: And I will deal truly with you,
" I never thought of excepting any other. I pray think
" well upon what I have offer'd, and the Benefit you and I
" have receiv'd from that Offer; and encourage and oblige
" all other Persons, by not excluding them from the Benefit
" of this Act. This Mercy and Indulgence is the best
" Way to bring them to a true Repentance, and to make
" them more severe to themselves, when they find we are
" not so to them. It will make them good Subjects to me,
" and Friends and Neighbours to you; and we have then
" all our End, and you shall find this the securest Expedient
" to prevent future Mischief. Therefore I do earnestly de-
" sire and conjure you to depart from all particular Animosi-
" ties and Revenge, or Memory of past Provocations; and
" that you will pass this Act without other Exceptions, than
" of those who were immediately guilty of the Murder of
" my Father." ' Then, after a few Expressions of less Mo-
" ment, and a Word or two concerning *Ireland*, he thus con-
" cluded'. ' I do again conjure you, that you will use all
" Expedition in the Dispatch of this Bill."

But, notwithstanding this Speech, the Lords could not help laying before his Majesty, in an Address, how much the Crown Revenue would suffer by certain Concessions contain'd in this Act, as pass'd by the Commons. But this serv'd only to produce a Message to both Houses, which contains a very artful Declaration in Favour of the Commons, with an Eye to a proper Provision for the Crown: Which see in CHANDLER'S *Hist. Anno 12. Charles II. 1660. pag. 14.*

A Summary of this whole Matter, as well as of the Act itself, is thus given by *Echard*.

A Summary of The great Act of Indemnity, in a short Time, was sent from the Lords to the Commons with several Alterations, of the Proceedings to which the Commons were unwilling to agree: For the Indemnity. latter had subjected twenty, that were not the King's Judges, to be liable to such Pains and Penalties, not extending to Life, as should be inflicted by another Act to be pass'd in this

this Parliament; Whereas the Lords, finding the King's Anno 12, Car.
Inclination to tend towards the pardoning of all but such II. 1660.
as were his Father's Judges, or otherwise Actors in his Murder, disagreed to that Part of the Act as to all those nam'd by the Commons, except Sir *Arthur Haslerig*, Sir *Henry Vane*, and Colonel *John Lambert*, who were esteem'd to be so maliciously active in Opposition to his Majesty's Government, as to be excepted from any Conditions of Pardon. The Lords were more strict as to the King's Judges, and thought none ought to be spared, even those who had surrender'd themselves upon the Proclamation; but the Commons were of Opinion that a Difference ought to be made between those and the rest. They for some Time adhered to their first Resolutions; but, after several free Conferences, Matters were so compromis'd, that they agreed with the Lords in all Things, except some little Alterations to their Form of the Act: *Vane* and *Lambert* were excepted as to Life and Estate, but *Haslerig* remain'd liable to such Pains, Penalties and Forfeitures, as should be inflicted on him, not extending to Life; and the rest of those, put under the same Qualification by the Commons that were not of the King's Judges, were, with others, made only incapable of Offices, &c. The Favour shewn to Sir *Arthur Haslerig* was chiefly owing to General *Monck*, who, in the Beginning of the Restoration, being unwilling to make a Man desperate, who had two Regiments at his Command, had promis'd him, upon his Submission, to secure both his Life and Estate. This being made known in a Conference by the House of Commons, was justify'd with great Modesty by the General in the House of Peers, and his Life was thereupon pardon'd in the Act, and shortly after his Estate also was, at the Mediation of the General, granted to his Heir, a Person averse to his Father's Principles: Sir *Arthur* himself, a while after his Imprisonment, dying of a Fever in the *Tower*.

At the last Conference between the Lords and Commons, Chancellor *Hyde* took Occasion to speak of the King's Affection to his People by a very remarkable Instance, affirming, 'That he, being employ'd in a solemn Embassy at the Court of *Spain*, had it strictly given him in Charge by his present Majesty, to avow and declare, That the horrid Murder of his Royal Father was not the Act of the Parliament, or the People of *England*, but of a very wretched, and a very little Company of Miscreants in this Kingdom.' This was so very pleasing and obliging to the House of Commons, that, upon the Report of it to them, they order'd such of the Privy-Council as were

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Members of that House, ' That they present to his Majesty the humble, hearty, and thankful Sense this House hath of his Majesty's Justice and Favour, in making this just Defence for the Parliament and the People of *England*.' And within a few Days after, they compleated the much-desired Act of Indemnity.

And of the Act
itself.

The Act was large and very extensive, and as such was most likely to compose the Minds of a divided and distracted People, and to give Ease and Quiet to various and innumerable Criminals. One healing Clause was, ' That if any Person objected against another any Words of Reproach, tending to revive the Memory of the late Differences, he should pay ten Pounds, if a Gentleman; and forty Shillings, if one of a more inferior Degree. As to the Exceptions, the Act gave no Benefit to *Row, Garland, Harvey, Smith, Martin, Waller, Titchburn, Fleetwood, J. Temple, Wait, Meyn, Heveningham, Pennington, P. Temple, Lilburn, Millington, Potter, Wogan, Downs, Scroop, Lisle, Say, Walton, Harrison, Whally, Barksteed, Ludlow, Livesey, Okey, Hewson, Goffe, Holland, Challoner, Carew, Jones, Corbet, Clement, Scott, Cawley, Love, Dixwell, Blagrove, Cook, Broughton, Dendy, Hewlett, Peters, Hacker, Axtell*, or any of them; nor to those two disguised upon the Scaffold the 30th of *January 1648*.' All which Persons, for being instrumental in the Murder of the late King, are wholly excluded: But in regard the nineteen first-mention'd had render'd themselves according to the Proclamation of the 6th of *June*, and thereby pretended to some Favour, it was enacted, ' That if the said *Row*, and the rest so first mentioned, are attainted, their Execution should be suspended, until the King and Parliament should order the same ' Only *Mr. Scroop*, for vindicating his Crime, was again excepted. ' Next, *Cromwell, Ireton, Bradshaw, and Pride*, though dead, were excepted, and the Lands and Goods, Rights and Trusts of them, and one and twenty others deceas'd, viz. *Ewer, Danvers, Malewerer, Purefoy, Blakestone, Constable, Dean, Allen, Pelham, Moor, Alfred, Edwards, Norton, Ven, Andrews, Stapely, Horton, Fry, Hammond, Skippon and Bouchier*, were made subject to such Penalties and Forfeitures as by another Act, to be pass'd, should be ordain'd. Moreover, *Monson, Mildmay, Harrington and Wallop*, as not having sign'd the Warrant for the Execution of the King, were reserved to future Penalties and Forfeitures, not extending to Life. *Phelps and Haslerig* were put into the same Condition. *Hutchinson and Lassels* were made incapable to execute any Place of Trust, and to pay one Year's Value by way of Fine. *Oliver St. John*, and seventeen others nam'd in the Act, were to be excluded from any Benefit by

by this Act, if they accepted or executed any Office in *England*, either Ecclesiastical, Civil, or Military. And all that had given Sentence of Death in any of the late illegal High-Courts of Justice, except Colonel *Ingoldby* and Colonel *Thomlinson*, were disabled from being Members in any Parliament, or bearing any Office in *England* or *Wales*. Lastly, no Persons were to be indemnify'd who had enter'd into any Lands, &c. call'd *Fabrick Lands*, or possess'd themselves of any Rents or Revenues given for the Repair of any Cathedral or any other Church, or who had sacrilegiously enrich'd themselves by the converting of the Plate, Utensils, and Materials belonging to such Churches, to their private Use.' After all, we must not forget that Sir *Henry Vane* and *John Lambert* were excepted out of the Act.

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This important Affair being thus brought to a Period, and several other Bills ready for the Royal Assent, the King came to the House of Peers, *September 13, 1660*, and made a Speech to both Houses, (See *CHANDLER'S Hist.* p. 23) after which the Lord Chancellor (*Clarendon*) by his Majesty's Command, thus enlarged by way of Supplement.

My Lords and Gentlemen,

'The King tells you that he hath commanded me to say Lord Chancellor's Speech.
many Particulars to you; and the Truth is, he hath charged me with so many, that I have great Reason to fear, that I shall stand in much need of his Mercy, for omitting many Things he hath given me in Command; at least for delivering them in more Disorder and Confusion, than Matters of such Moment and Importance ought to be to such an Assembly, for which the King himself hath even a kind of Reverence, as well as an extraordinary Kindness. I am to mention some Things he hath done already, and many Things he intends to do during this Recess, that you may see, how well content soever he is that you should have Ease, and Pleasure, and Refreshment, he hath designed Work enough for himself.

'The King hath thanked you for the Provision you have made that there may be no free Quarter during the Time the Army shall be disbanding, and hath told you what he will do with that Money you have given him, if there should want wherewithal to disband it; and now I hope you will all believe, that his Majesty will consent to the disbanding: He will do so; and yet he does not take it unkindly at their Hands, who have thought that his Majesty would not disband this Army; it was a sober and a rational Jealousy; other Princes in *Europe* would be willing to disband such an Army;

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Army; an Army to which Victory is entailed, and which, humanly speaking, could hardly fail of Conquest whithersoever he should lead it; and, if God had not restored his Majesty to that rare Felicity, so as to be without Apprehension of Danger at Home or from Abroad, and without any Ambition of taking from his Neighbours what they are possessed of, himself would never disband this Army; an Army whose Order and Discipline, whose Sobriety and Manners, whose Courage and Success have made it famous and terrible over the World; an Army of which the King and his two Royal Brothers may say, as the noble *Grecian* said of *Aeneas*.

———— *Stetimus tela aspera contra,
Contulimusque manus, experto credite, quantus
In clypeum assurgat, quo turbine torqueat hastam.*

“ They have all three, in several Countries, found themselves engaged in the midst of these Troops, in the Heat and Rage of Battle; and if any common Soldiers (as no doubt many may) will demand the old *Roman* Privilege for having encountred Princes single, upon my Conscience, he will find both Favour and Preferment: They have all three observed the Discipline, and felt, and admired, and loved the Courage of this Army, when they were the worse for it; and I have seen them, in a Season when there was little else of Comfort in their View, refresh themselves with Joy, that the *English* had done the great Work, the *English* had got the Day, and then please themselves with the Imagination what Wonders they should perform at the Head of such an Army: And therefore when his Majesty is so entirely possessed of the Affection and Obedience of this Army, and when it hath merited so much from him, can it be believed, or imagined, that he can without some Regret part with them? No, *My Lords and Gentlemen*, he will never part with them; and the only sure way never to part with them, is to disband them: Should it be otherwise, they must be exposed to the daily Importunity of his great Neighbours and Allies; and how could he refuse to lend them his Troops, of which he had no use himself? His Majesty knows they are too good *Englishmen*, to wish that a standing Army should be kept in the Bowels of their own Country; that they who did but *in Bella pacis gerere negotium*, and who, whilst an Army, lived like good Husbandmen in the Country, and good Citizens in the City, will now become really such, and take Delight in the Benefit of that Peace they have so honestly and so wonderfully brought to pass: The King will part with them, as
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the most indulgent Parents part with their Children; for their Education, and for their Preferment; he will prefer them to disbanding, and prefer them by disbanding, and will always retain such a Kindness for them, and such a Memory of the Service they have done him, that both Officers and Soldiers; after they are disbanded, shall always find such Countenance, Favour, and Reward from his Majesty, that he doubts not, but if he should have Occasion to use their Service, they will again resort to him with the same Alacrity, as if they had never been disbanded: And if there be any so ill among them (as there can be but very few, if any) who will forfeit that Favour and Protection they may have from him; by any withstanding his Majesty's Commands, and the full and declared Sense of the Kingdom; his Majesty is confident they will be as odious to their Companions, as they can be to any other honest Men.

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My Lords and Gentlemen, I am in the next Place, by the King's Command, to put you in mind of the Act of Indemnity; not of any Grants or Concessions, or Releases he made to you in that Act; I have nothing of that in Charge; no Prince hath so excellent a Memory to forget the Favours he doth; but of what he hath done against you in that Act, how you may be undone by that Act, if you are not very careful to perform the Obligations he hath laid upon you in it: The Clause I am to put you in mind of, is this, 'And to the Intent and Purpose that all Names and Terms of Distinction may be likewise put into utter Oblivion, be it further enacted by the Authority aforesaid, That if any Person or Persons, within the Space of three Years next ensuing, shall presume so maliciously to call or alledge, or object against any other Person or Persons, any Name or Names, or other Words of Reproach, any way leading to revive the Memory of the late Differences; or the Occasion thereof, that then every such Person, so, as aforesaid, offending, shall forfeit, &c.' It is no matter for the Penalty, it is too cheap a one; the King wishes it had been greater, and therefore hath by his just Prerogative (and 'tis well for us he hath such a Prerogative) added another Penalty more insupportable, even his high Displeasure against all who shall swerve from this Clause in the Act. Give me leave to tell you, that as any Name or Names, or other Words of Reproach, are expressly against the Letter, and punishable accordingly; so evil and envious Looks, murmuring and discontented Hearts, are as directly against the Equity of this Statute; a direct Breach of the Act of Indemnity, and ought to be punished too; and I believe they may be so. You know Kings are in some Sense called Gods, and so they may in some Degree

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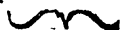
be able to look into Mens Hearts; and God hath given us a King who can look as far into Men's Hearts as any Prince alive; and he hath great Skill in Physiognomy too: You would wonder what Calculations he hath made from thence; and no doubt, if he be provok'd, by evil Looks, to make a further Enquiry into Men's Hearts, and finds those corrupted with the Passions of Envy and Uncharitableness, he will never chuse those Hearts to trust and rely upon. He hath given us a noble and princely Example, by opening and stretching out his Arms to all who are worthy to be his Subjects, worthy to be thought *Englishmen*; by extending his Heart with a pious and grateful Joy to find all his Subjects at once in his Arms, and himself in theirs: And shall we fold our Arms towards one another, and contract our Hearts with Envy and Malice to each other, by any sharp Memory of what hath been un-neighbourly or unkindly done heretofore? What is this but to rebel against the Person of the King, against the excellent Example and Virtue of the King, against the known Law of the Land, this blessed Act of Oblivion.

' *My Lords and Gentlemen*, The King is a Suitor to you, makes it his Suit very heartily, that you will join with him in restoring the whole Nation to its primitive Temper and Integrity, to its old good Manners, its old good Humour, and its old good Nature: Good Nature, a Virtue so peculiar to you, so appropriated by God Almighty to this Nation, that it can be translated into no other Language, hardly practised by any other People; and that you will, by your Example, by the Candour of your Conversation, by your Precepts, and by your Practice, and by all your Interest, teach your Neighbours and your Friends, how to pay a full Obedience to this Clause of the Statute, how to learn this excellent Art of Forgetfulness.

' Let them remember, and let us remember, how ungracious, how indecent, how ugly the Insolence, the Fierceness, the Brutishness of their Enemies appeared to them; and we may piously and reasonably believe, that God's Indignation against them, for their Want of Bowels, for their not being *Englishmen*, (for they had the Hearts of Pagans and Infidels) sent a Whirlwind in a Moment to blow them out of the World, that is, out of a Capacity to do more Mischief to the World, except we practise their Vices, and do that ourselves which we pretend to detest them for: Let us not be too much ashamed, as if what hath been done amiss, proceeded from the Humour and Temper, and the Nature of our Nation. The Astrologers have made us a fair Excuse, and truly I hope a true one; all the Motions of these last twenty Years have been unnatural, and have proceeded from the
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evil Influence of a malignant Star; and let us not too much despise the Influence of the Stars: And the same Astrologers assure us, that the Malignity of that Star is expired; the good Genius of this Kingdom is become superior, and hath mastered that Malignity, and our own good, old Stars govern us again; and their Influence is so strong, that, with our Help, they will repair in a Year, what hath been decaying in twenty; and they only shall have no Excuse from the Star, who continue their Malignity, and own all the Ill that is past to be their own, by continuing and improving it for the Time to come.

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‘ If any body here, or any where else, be too much exalted with what he hath done, or what he hath suffered, and from thence thinks himself warranted to reproach others, let him remember the Story of *Nicephorus*: It is an excellent Story, and very applicable to such Distempers: He was a pious and a religious Man, and for his Piety and Religion was condemned to the Fire; when he was led to Execution, an old Friend, who had done him Injury enough, fell at his Feet and ask’d him Pardon; but the poor Man was so elevated with the Triumph he was going unto, with the Glory of Martyrdom, that he refused to be reconciled unto him; upon which he was disappointed of his End: And for this Uncharitableness, the Spirit of God immediately forsook him, and he apostatized from the Faith. Let all those who are too proud of having been as they think less faulty than other Men, and so are unwilling to be reconciled to those who have offended them, take heed of the Apostacy of *Nicephorus*; and that those Fumes of Envy and Uncharitableness, and Murmuring, do not so far transport and intoxicate them, that they fall into those very Crimes, which they value themselves for having hitherto declined.

‘ But, *My Lords and Gentlemen*, whilst we conspire together, to execute faithfully this Part of the Bill, to put all old Names and Terms of Distinction into utter Oblivion; let us not find new Names and Terms to keep up the same, or a worse Distinction: If the old Reproaches of Cavalier, and Round-head, and Malignant, be committed to the Grave, let us not find more significant and better Words, to signify worse Things; let not Piety and Godliness grow into Terms of Reproach, and distinguish between the Court, and City, and the Country; and let not Piety and Godliness be measured by a morosity in Manners, and affectation of Gesture, a new mode and tone of Speaking; at least, let not our Constitutions and Complexions make us be thought of a contrary Party; and, because we have not an affected Austerity in our Looks, that we have not Piety in our Hearts. Very merry Men have been very godly Men; and if a good Conscience be a
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‘ You, Mr. Speaker, have this Day made a noble Present to the King. Do you think if you and your worthy Companions had brought it up with folded Arms, downcast Looks, with Sighs, and other Instances of Desperation, it would not have been a very melancholy Present? Have not your frank and dutiful Expressions, that Cheerfulness and Vivacity in your Looks, render’d it much more acceptable, much more valuable? No Prince in Christendom loves a cheerful Giver so well as God Almighty does, and he of all Gifts, a cheerful Heart: And therefore I pray let not a cloudy disconsolate Face be the only, or the best Sign of Piety and Devotion in the Heart.

‘ I must ask your Pardon for misplacing much of this Discourse, which I should have mentioned, when I came to speak of the Ministers Bill; they I hope will endeavour to remove these new Marks of Distinction and Reproaches, and keep their Auditories from being imposed upon by such Characters and Descriptions. The King hath passed this Act very willingly, and done much to the end of this Act before; yet hath willingly admitted you to be Sharers and Partners with him in the Obligation: I may say confidently his Majesty hath never denied his Confirmation to any Man in Possession who hath asked it; and they have all the Effect of it, except such who, upon Examination and Enquiry, appeared not worthy of it; and such who, though they are pardoned, cannot yet think themselves worthy to be prefer’d. His Majesty well knows that by this Act he hath gratified and obliged many worthy and pious Men, who have contributed much to his Restoration, and who shall always receive fresh Evidence of his Majesty’s Favour and Kindness; but he is not sure that he may not likewise have gratified some who did neither contribute to his coming in, nor are yet glad that he is in; how comes it else to pass, that he receives such frequent Informations of seditious Sermons in the City and the Country, in which all Industry is used to alienate the Affections of the People, and to infuse Jealousies into them of the King and his Government? They talk of introducing Popery, of evil Counsellors, and such other old Calumnies as are pardoned by this Act of Indemnity.

‘ His Majesty told you, when he was last here, what Rigour and Severity he will hereafter use, how contrary soever it is to his Nature in these Cases; and conjured you, *My Lords and Gentlemen*, to concur with him in this just and necessary Severity, which I am sure you will do with your utmost Vigilance, and that you will believe that too much Ill cannot befall those who

who do the best they can to corrupt his Majesty's Nature, and to extinguish his Mercy.

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' My Lords and Gentlemen, I told you I was to acquaint you with some Things his Majesty intends to do during this Recess, that you may see he will give no Intermission to his own Thoughts for the public Good, tho', for a Time, he dispenses with your Assistance.

' He doth consider the infinite Importance the Improvement of Trade must be to this Kingdom, and therefore his Majesty intends forthwith to establish a Council for Trade, consisting of some principal Merchants of the several Companies; to which he will add some Gentlemen of Quality and Experience; and, for their greater Honour and Encouragement, some of the Lords of his own Privy Council.

' In the next Place, his Majesty hopes that, by a well settled Peace, and God's great Blessing upon him and you, this Nation will in a short time flourish to that Degree, as the Land of *Canaan* did, when *Esau* found it necessary to part from his Brother. ——— *For their Riches were more, than that they might dwell together; and the Land wherein they were, could not bear them, because of their Cattle:* We have been ourselves very near this Pinacle of Happiness, and the Hope and Contemplation that we may be so again, disposes the King to be very solicitous for the Improvement and Prosperity of his Plantations abroad, where there is such large room for the Industry and Reception of such who shall desire to go thither; and therefore his Majesty likewise intends to erect and establish a Council for those Plantations, in which Persons well qualified shall be wholly intent upon the Good and Advancement of those Plantations.

' There are two other Particulars, which I am commanded to mention, which were both mentioned and recommended to you by his Majesty in his Declaration from *Breda*; the one, for the Confirmation of Sales, or other Recompence for Purchasers; the other, for the composing those Differences and Distempers in Religion, which have too much disturbed the Peace of the Kingdom. Two very weighty Particulars, in which his Majesty knows you have spent much time, and concerning which, he should have heard from you before this time, if you had not met with great Difficulties in the Disquisition of either.

' For the first, his Majesty hath not been without much Thought upon the Argument, and hath done much towards the Accommodation of many particular Persons, and you shall not be at your Journey's End, before his Majesty will put that Business concerning Sale, into such a way of Dispatch, that he doubts not you will find a good Progress made

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in it before your coming together again, and I believe the Persons concerned, will be very much to blame, if they receive not good Satisfaction; and some of you who stay in Town, shall be advised and consulted with on that Settlement,

The other, of Religion, is a sad Argument indeed; it is a Consideration that must make every religious Heart bleed, to see Religion, which should be the strongest Obligation and Cement of Affection, and brotherly Kindness and Compassion, made now, by the Wrangies of passionate and froward Men, the Ground of all Animosity, Hatred, Malice, and Revenge: And this unruly and unmanly Passion (which no question the Divine Nature exceedingly abhors) sometimes, and I fear too frequently, transports those who are in the right, as well as those who are in the wrong, and leaves the latter more excusable than the former, when Men who find their Manners and Dispositions very conformable in all the necessary Obligations of human Nature, avoid one another's Conversation, and grow first unsociable, and then uncharitable to each other, because one cannot think as the other doth: And from this Separation we entitle God to the Patronage of, and Concernment, in our Fancies and Distinction, and purely for his sake hate one another heartily. It was not so of old, when one of the most ancient Fathers of the Church tells us, That Love and Charity was so signal and eminent in the primitive Christians, that it even drew Admiration and Envy from their Adversaries, *Vide, inquit, ut invicem se diligunt!* Their Adversaries in that in which they most agreed, in their very Prosecution of them, had their Passions and Animosities amongst themselves; they were only Christians, that loved, and cherished, and comforted, and were ready to die for one another: *Quid nunc illi dicerent Christiani, si nostrā viderent tempora!* says the incomparable Grotius; How would they look upon our sharp and virulent Contentions in the Debates of Christian Religion, and the bloody Wars that have proceeded from those Contentions, whilst every one pretended to all the Marks which are to attend upon the true Church, except only that which is inseparable from it, Charity to one another?

My Lords and Gentlemen, This Disquisition has cost the King many a Sigh, many a sad Hour, when he hath considered the almost irreparable Reproach the Protestant Religion hath undergone, from the Divisions and Distractions which have been so notorious within this Kingdom. What Pains he hath taken to compose them, after several Discourses with learned and pious Men of different Persuasions, you will shortly see, by a Declaration he will publish upon that Occasion, by which you will see his great Indulgence to those who

can have any Protection from Conscience to differ with their Brethren. And I hope God will so bless the Candor of his Majesty in the Condescensions he makes, that the Church, as well as the State, will return to that Unity and Unanimity, which will make both King and People as happy as they can hope to be in this World.

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'My Lords and Gentlemen, I shall conclude with the King's hearty Thanks to you, not only for what you have done towards him, which hath been very signal, but for what you have done towards each other; for the excellent Correspondence you have maintained; for the very reasonable Defe-
rence and Condescension you have had for each other, which will restore Parliaments to the Veneration they ought to have. And since his Majesty knows, that you all desire to please him, you have given him ample Evidence, that you do so; he hath appointed me to give you a sure Receipt to attain that good End, it is a Receipt of his own prescribing, and therefore is not like to fail.

'Be but pleased yourselves, and persuade others to be so; contrive all the ways imaginable for your own Happiness, and you will make him the best pleased, and the most happy Prince in the World.'

November 6. The Parliament met according to their Adjournment; but, during the whole Session, nothing occurs of Moment with respect to the House of Lords: And indeed but little among the Commons: All the King's Demands being complied with, and no such thing as an Opposition thought of. Within two Months, therefore, all the public Business (of which a Grant of 1,200,000*l. per Annum* to the King was the chief Article) was dispatched, and the King took his Leave of them with a Profusion of Compliments, perhaps to sweeten the Dissolution which followed at the End of it: It not being held expedient, notwithstanding all they had done for him, to trust the Continuance of their good Humour another Session.

Thus ended the famous *Convention*, about eight Months after the first Meeting, and seven after the Restoration, when it received (says *Echard*) the Royal Stamp of *Parliament*: An Assembly that began with the greatest Expectation, and ended with the greatest Satisfaction of all People. Never was so glorious a Harmony between the King and Parliament of *England* for many Years before. And here we may observe, with an ingenious modern Writer, that it looks as if Heaven took a more than ordinary Care of the *English*, that they did not throw up all their Liberties at once, upon the Restoration of the King; for, tho' some were for bringing him

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him back upon *Terms*, yet after he was once come, he so entirely possessed the Hearts of his People, that they thought nothing too much for them to grant, or for him to receive. Among other Designs to oblige him, there was one formed to settle such a Revenue upon him for Life, as should place him beyond the Necessity of asking more, except in the Case of a War, or some such Emergency. And as to the Particulars, another Writer informs us, That Mr. *Alexander Popbam*, a Man of Intrigue and great Capacity, offered the King, with the Assistance of a Party he had in the Parliament, to procure an Act for settling on him and his Successors above two Millions a Year by way of Subsidy; which, with the Revenue of the Excise and other Duties, must have made him a very rich Prince. The King was well pleased with the Proposal, especially since the Want of Money had occasioned his Father's unfortunate Projects; but advising about it with Chancellor *Hyde*, that Minister told him, *That the best Revenue he could have, would be the gaining the Hearts of his Subjects; that if he would trust to them, he would find such Supplies as should never fail him in Time of Need.* Therefore it may be added, with another Writer, It is to his Memory, that we owe our being a free People; for he, with his two Friends, the Duke of *Ormond*, and the Earl of *Southampton*, checked the Forwardness of some who were desirous to load the Crown with Prerogative and Revenue. He put a Stop to all this, which being afterwards odiously represented, brought on that great and lasting, but honourable Disgrace.

The only Protest of this Session to be met with was as follows:

Die Jovis 13^o Decembris, 1660.

Protest on a Bill
to vacate certain
Fines.

Hodie 3^a vice lecta est Billa, An Act to vacate certain Fines unduely procured to be levied by Sir Edward Powell, Knt. and Bart. and Dame Mary his Wife.

The Question being put, whether this Bill shall pass for a Law?

It was resolved in the Affirmative.

Whereas before the Question was put for passing the said Bill, Leave was desired for entering Protestations in the Behalf of the Lords here underwritten, in case the Vote upon the said Act should be carried in the Affirmative, we, in Pursuance thereof, do enter our Protests against the said Act for these Reasons following:

That Fines are the Foundations of the Assurances of the Realm, upon which so many Titles do depend, and therefore ought not to be shaken; nor hath there any Precedent occurred

cured to us, wherein any Fines have been vacated by Judgment or Act of Parliament, or otherwise, without Consent of the Parties; the Eye of the Law looking upon Fines as Things always transacted with Consent, and with that Reverence, that no Averment whatsoever shall be good against them when they are perfected; and farther, we conceive, that by a future Law to vacate Assurances, which are good by the standing Law, is unreasonable and of a dangerous Consequence, especially in this Case, were *Skinner* and *Cbute*, Purchasers of a considerable Part of the Lands comprised in the said Fines, have petitioned, and yet have not been heard upon the Merits of their Case, which is contrary, as we conceive, to the Statute of 28 *Edward III.* chap. 3: which saith, No Man shall be put out of his Land or Tenement, nor disinherited, without being brought to answer by due Process of Law.

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<i>Edward Hyde, C.</i>	<i>Ch. Richmond</i>	<i>W. Grey,</i>
<i>F. Montague,</i>	<i>and Lenox,</i>	<i>Albemarle,</i>
<i>W. Say and Seale,</i>	<i>Manchester,</i>	<i>Berkshire,</i>
<i>T. Culpeper,</i>	<i>Tho. Coventry,</i>	<i>A. Capell,</i>
<i>T. Willoughby,</i>	<i>W. Roberts,</i>	<i>Ro. Lexington,</i>
<i>Portland,</i>	<i>Brecknock,</i>	<i>Suffolk,</i>
<i>Sandys,</i>	<i>Norwich,</i>	<i>Stafford,</i>
<i>Will. Petre,</i>	<i>Brudenell,</i>	<i>Fr. Dacre,</i>
<i>Cha. Hatton,</i>	<i>L. Howard,</i>	<i>P. Wharton.</i>




The FIRST SESSION of the Second Parliament of King CHARLES II.

ON the 8th of *May*, 1661, being the 13th of his Majesty's Reign, but the Second of his Power, the new Parliament was opened with a Speech from the Throne, and another from the Chancellor, the first of which is to be found entire. — *Chandler*, Anno *Charles II.* 1661. Page 31, 32, 33, and the second in Abstract only: The Chancellor's at length being as follows:

My Lords, and you the Knights, Citizens, and Burgeses of the House of Commons,

' The King hath called you hither by his Writ, to assist him with your Information and Advice, in the greatest and weightiest Affairs of the Kingdom: By his Writ, which is the only good and lawful Way to the Meeting of a Parliament; and the pursuing that Writ, the remembering how and

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and why they came together, is the only Way to bring a happy End to Parliaments; there was no such Writ as this, no such Presence as this in the Year 1654, when this unhappy Kingdom was dishonoured and exposed to the Mirth and Reproach of their Neighbours in the Government of a Commonwealth; there was no such Writ as this, no such Presence as this, in *December* 1653, when that Infant Commonwealth, when the three Kingdoms of *England, Scotland, and Ireland*, and the Dominions thereunto belonging, were delivered up into the bloody and merciless Hands of a devouring Protector, and sacrificed to his Lust and Appetite: There was no such Writ at this, no such Presence as this in the Year 1656, when that Protector was more solemnly invested and installed, and the Liberty of the three Nations submitted to his absolute Tyranny by *the humble Petition and Advice*. When People came together by such exorbitant Means, it is no wonder that their Consultations and Conclusions were so disproportioned from any Rules of Justice or Sobriety. God be thank'd, that he hath reserv'd us to this Day, a Day that many good Men have died praying for, that, after all those Prodigies in Church and State, we have lived to see the King at the Opening of the Parliament; that we have lived to see our King anointed and crowned by the Hands of an Archbishop, as his Predecessors have been; and that we are come hither this Day in obedience to his Writ.

‘The King tells you he hath caused a Bill or two to be prepared for the Confirmation of all that was enacted in the last Parliament, and commends the Dispatch of those to you with some Earnestness. The Truth is, it is a great part of the Business of this Parliament to celebrate the Memory of the last, by confirming or re-enacting all that was done by that Parliament; which, tho’ it was not called by the King’s Writ, may be reasonably thought to have been called by God himself, upon the Supplication and Prayer of the King and the whole Nation, as the only Means to restore the Nation to its Happiness, to its Self, to its Honour, and even to its Innocence. How glad the King was of it, appears by what he writ to them from *Breda*, when he referred more to them than ever was referred to Parliament: He referred in truth (upon the Matter) all that concerned himself, and that concerned Religion, all that concerned the Peace and Happiness of the Kingdom to them: And to their Honour be it spoken, and to their Honour be it ever remember’d, that the King, Religion, and the Kingdom, have no Reason to be sorry that so much was intrusted to them; nor they to be ashamed of the Discharge of their Trust. It would have
been

been a very unseasonable Scruple in any Man, who would have refused to bear his Part in the excellent Transactions of that Parliament, because he was not called thither by the King's Writ; and it would be a more unreasonable Scruple now, in any Man, after we have all received the Fruit and Benefit of their Councils and Conclusions, when in truth we owe our orderly and regular meeting at this Time to their extraordinary meeting then; to their Wisdom in laying hold upon the King's Promise, and to the King's Justice in performing all he promised, and to the Kingdom's Submission and Acquiescence in those Promises. I say it would be very unseasonable and unreasonable now to endeavour to shake that Foundation, which, if you will take the King's Judgment, supports the whole Fabric of our Peace and Security. He tells you what he should think of any who go about to undermine that Foundation; which is a Zeal no Prince could be transported with but himself; it might have seemed enough for a King who had received so many Injuries so hardly to be forgotten, undergone so many Losses to be repair'd, to have been willing to confirm and to re-enact the *Act of Oblivion and Indemnity*, when you should present it to him; but to prepare such an Act for you, to conjure you by all that is precious, by your Friendship to him, to dispatch those Acts with Expedition, is such a Piece of fatherly Tenderneſs and Piety as could proceed from no Heart, but such a one, in which God hath treasured up a Stock of Mercy, and Justice, and Wisdom, to redeem a Nation. And truly, my Lords and Gentlemen, for ourselves, if we'll consider how much we owe to those, who, with all the Faculties of their Souls, contributed to, and contrived the blessed Change; the restoring the King to his People, and his People to the King; and then how much we owe to those who gave no Opposition to the virtuous Activity of the other, (and God knows a little Opposition might have done much Harm) whether we look upon the public, or upon our own private Provocations, there will remain so few who do not deserve to be forgiven by us, that we may very well submit to the King's Advice, and his Example; of whom we may very justly say, as a very great Emperor, and I am sure it could never be so truly said of any Emperor as of ours, *Facere recte Cives suos, Princeps optimus faciendo docet; cumque sit Imperio maximus, exemplo major est*. Nor indeed hath he yet given us, or have we felt any other Instances of his Greatness, and Power, and Superiority, and Dominion over us, *nisi* (as he said) *aut levatione periculi, aut accessione dignitatis*, by giving us Peace, Honour, and Security, which we could not have without him, by desiring

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nothing

Anno 13, Car. II. 1661. nothing himself ; and therefore I hope we shall make no
 Scruple of obeying him in this Particular.

My Lords and Gentlemen, Though the last Parliament did great and wonderful Things indeed, as much as in that Time they could, yet they have left very great Things for you to do. You are to finish the Structure, of which they but laid the Foundation ; indeed they left some Things undone, which it may be they thought they finished. You will find the Revenue they intended to raise for the King very much short of what they promised : You will find the public Debts for the Discharge of the Army and the Navy, which they thought they had provided for sufficiently, to be still in arrear and unpaid. And here I am, by the King's special Command, to commend the poor Seamen to you, who, by the Rules which were prescribed for their Payment, are in a much worse Condition than, without Question, was foreseen they would be ; for by appointing them to be paid but from 1658, (which was a safe Rule to the Army,) very many are still in arrear for two, or three, or four Years Service ; and so his Majesty's Promise to them from *Breda* remains unperformed. Some other Losses, which resulted from other Rules given for their Payment, have been supplied to them by the King's own Bounty : They are a People very worthy of your particular Care and Cherishing ; upon whose Courage and Fidelity very much of the Happiness and Security of the Nation depends ; and therefore his Majesty doubts not you will see Justice done towards them with Favour.

My Lords and Gentlemen, You are now the great Physicians of the Kingdom, and, God knows, you have many wayward, and froward, and distemper'd Patients ; Patients who are in truth very sick, and Patients who think themselves sicker than they are ; and some who think themselves in health, and are most sick of all. You must therefore use all the Diligence, and Patience, and Compassion which good Physicians have for their Patients ; all the Chearfulness, and Complacency, and Indulgence, their several Habits and Constitutions, and Distempers of Body and Mind may require : Be not melancholic with your Patients, nor suffer them to be too melancholic, by believing that every little Distemper will presently turn to a violent Fever, and that Fever will presently turn to the Plague ; that every little Trespass, every little swerving from the known Rule, must insensibly grow to a Neglect of the Law, and that Neglect as insensibly introduce an absolute Confusion ; and every little Difference in Opinion or Practice, in Conscience and Religion.

ligion. Be not too severe and rough towards your Patients, Anno 13, Car.
 in prescribing Remedies, how well compounded soever, too II. 1661.
 nauseous and offensive to their Stomachs and Appetite, or to
 their very Fañcy; allay and correct those Humours which
 corrupt their Stomachs and their Appetite: If the good, old,
 known, tried Laws be for the present too heavy for their
 Necks, which have been so many Years without any Yoke
 at all, make a temporary Provision of an easier and a lighter
 Yoke, till, by living in a wholesome Air, by the Benefit of
 a soberer Conversation, by keeping a better Diet, by the
 Experience of a good and just Government, they recover
 Strength enough to bear, and Discretion enough to discern
 the Benefit and Ease of those Laws they disliked. If the pre-
 sent Oaths have any Terms or Expressions in them, that a
 tender Conscience honestly makes Scruple of submitting to,
 in God's Name, let other Oaths be formed in their Places,
 as comprehensive of all those Obligations which the Policy of
 Government must exact; but still let there be a Yoke, let
 there be an Oath, let there be some Law that may be a Rule
 to that Indulgence, that, under a pretence of Liberty of Con-
 science, Men may not be absolved from all the Obligations
 of Law and Conscience.

" I have besought your good Nature and Indulgence to-
 wards some of your weak Patients, if by it they can be
 brought to follow and submit to your Prescriptions for their
 Health; nor is it reasonable to imagine that the Distempers
 of twenty Years can be rectified and subdued in twelve
 Months; there must be a natural Time, and natural Appli-
 cations allowed for it: But there are a sort of your Patients
 that I must recommend to your utmost Vigilance, utmost Se-
 verity, and to no Part of your Lenity or Indulgence; such
 who are so far from valuing your Prescriptions, that they
 look not upon you as their Physicians, but their Patients,
 such who, instead of repenting any thing that they have done
 amiss, repent every Day the same Crimes, for the Indemnity
 whereof the Act of Oblivion was provided. These are sedi-
 tious Preachers, who cannot be contented to be dispensed
 with for their full Obedience to some Laws established, with-
 out reproaching and inveighing against those Laws how estab-
 lished soever; who tell their Auditories, that the Apostle
 meant, when he bid them stand to their Liberties, that they
 should stand to their Arms, and who, by repeating the very
 Expressions, and teaching the very Doctrine they set on foot
 in the Year 1640, sufficiently declare that they have no Mind
 that twenty Years should put an End to the Miseries we have
 undergone.

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‘ What good Christian can think without Horror of these Ministers of the Gospel, who, by their Function should be Messengers of Peace, and are in their Practice, the only Trumpets of War, and Incendiaries towards Rebellion? How much more Christian was that *Athenian* Nun in *Plutarch*, and how shall she rise up in Judgment against these Men, who when *Alcibiades* was condemned by the public Justice of the State, and a Decree made, that the Religious, the Priests and the Nun, should revile and curse him, stoutly refused to perform that Office, saying, that she was professed Religious, to pray and to bless, not to curse and ban. And if the Person and Place can improve and aggravate the Offence, as no doubt it doth, both before God and Man, methinks the preaching Rebellion and Treason out of the Pulpit should be as much worse than the advancing it in the Market, as poisoning a Man at the Communion would be worse than killing at a Tavern; and it may be in the Catalogue of those Sins which the Zeal of some Men declares to be against the Holy Ghost, there may not be any one more reasonably thought to be such, than a Minister of *Christ*’s turning Rebel against his Prince, which is a most notorious Apostacy from his Order; and his preaching Rebellion to the People as the Doctrine of *Christ*, adding Blasphemy and Pertinacy to his Apostacy, hath all the Marks by which good Men are taught to know and avoid that Sin against the Holy Ghost: If you do not provide for thorough quenching these Firebrands, King, Lords and Commons shall be their meanest Subjects, and the whole Kingdom kindled into one general Flame.

‘ *My Lords and Gentlemen*, When the King spoke last in this Place, before this Day, he said, when he should call the next Parliament he should receive their Thanks for what he had done since he had dissolved the last; for he said, he should not more propose any one Rule to himself in his Actions, or his Councils, than this: *What is a Parliament like to think of this Action, or of that Council? And that it should be Want of Understanding in him if it would not bear that Test.* He told you but now, that he values himself much upon keeping his Word; upon performing all that he promises to his People; and he hath the worst Luck in the World if he hath not complied with this Promise, and if his Understanding hath failed him in it. It was in a very little Time after the Dissolution of that Parliament, his Majesty giving himself a few Days to accompany his Royal Mother to the Sea-side, (the only Time he hath slept out of this Town near this twelve Months) that the most desperate and prodigious Rebellion brake out in this City that hath been heard of in any Age, which continued two or three Nights toge-

together, with the Murder of several honest Citizens. Let Anno 13, Car.
no Man undervalue the Treason, because of the Contempti- II. 1661.
bleness of the Number-engaged in it; no Man knows the
Number, but by the Multitude of the intercepted Letters from
and to all the Counties of *England*, in which the Time was
set down, wherein the Work of the Lord was to be done;
by the desperate Carriage of the Traitors themselves, and
their bragging of their Friends, we may conclude the
Combination reached very far; and in truth we may reason-
ably believe, that if the undaunted Courage and indefatigable
Industry of the Lord-Mayor of *London*, who deserves to be
mentioned before King, Lords and Commons, and to be es-
teemed by them, had not prevented it: I say, it is probable
this Fury would not have been extinguished, before this fa-
mous City, or great Part of it, had been burned to Ashes.
If you enquire what the King did upon this unheard-of Pro-
vocation, what Vengeance he took upon those whose pro-
fessed and avowed Principle was not to distinguish between
him and another Man, you will find, as was said of *Cæsar*,
that *Libentius vitam victor jam darent, quam victi acciperent*:
That his Mercy hath been no less obstinate than their Ma-
lice and Wickedness; that few Persons have suffered; and
that he hath restrained the Law from being severe to many,
who at the same time continue their Guilt, and undervalue
his Compassion; that there hath not been Combinations and
Conspiracies formed against his Person, and against the Peace
of the Kingdom, which before this time would have taken
effect, if God had not put it into the Hearts of some who
were trusted in the Councils, to discover the Designs time
enough for Prevention; and upon all these Alarms, and the
Interception of such Letters as would, in all other Countries,
have produced the Rack for further Discoveries, and, under
the late Government, in this, would have erected High
Courts of Justice for their Punishment, he hath left the Of-
fenders to his Judges of the Law, and those Judges to the
precise Forms, and ordinary Rules of the Law.

‘*My Lords and Gentlemen*, If the new License and Corrup-
tion of this Time hath exceeded the Wickedness of former
Ages, that the old Laws had not enough provided for the
Punishment of Wickedness, they could not foresee, or ima-
gine, it will become your Wisdoms to provide new Remedies
for new Diseases, and to secure the precious Person of our
dear Sovereign from the first Approaches of Villany, and the
Peace of the Kingdom from the first Overtures of Sedition:
If you will not provide Laws to do it, the King will not
do any thing extraordinary, even towards his own Prefer-
vation.

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' You see the Rule by which he hath walked, and as he hath made good his Prophecy, and that he shall receive Thanks for what he hath done since he was last here. He hath told you now what he hath done, That he is resolved to marry, and resolved whom to marry; which, I believe, is the most grateful News that the whole Kingdom hath longed for, or could receive from the first Day of his Landing here; and when they shall know the great Deliberation he hath used before that Resolution, and the Circumstances in resolving it, they will surely have Cause to confess, that never King, in the Disposal of himself in Marriage, took so great Care for the Good and Felicity of his People. With- in a very short time after his Landing in this Kingdom, he was moved by the Ambassador of *Portugal* to renew a Treaty lately made between that Crown and the Usurper; a Treaty in very many Respects the most advantageous to this Nation that ever was enter'd into with any Prince or People; a Treaty by which, at this Time, that Crown is paying the Penalty (which the Usurper exacted from it) for the most heroic and noble Act of Honour and Friendship perform'd by any Prince towards another Prince in distress; and yet the King was nothing forward to ratify this Treaty, tho' it is very true, every Article in it, but one, was entirely for the Benefit of this Nation, for the extraordinary Advancement of Trade, for the Good of Religion, and for the Honour of the Crown; yet there is one, one single Article that must oblige the King, as it did oblige the Usurper, to supply *Portugal* with an Army for his Assistance when he should require it; that is, that *Portugal* should have a Power to make Levies of ten Thousand Men for their Service: This the King foresaw might produce a War with *Spain*, which he was very unwilling to undergo for that Engagement; and yet his Council represented unto him how Heart-breaking a Thing it would be to his People to lose the Possession of so great a Trade, and those other immense Advantages they had by that Treaty: And that it would be judged an irrecoverable Error in Policy, if *Portugal* should be suffered again to be swallowed up by *Spain*. However, the King was resolved not precipitately to engage himself in such a Treaty as might be attended with such an Inconvenience, but to take time fully to consider of it; and this Delay the *Portugal* could not be pleased with, and so the Ambassador return'd Home to his Master.

' About this time the House of Commons sent up a Bill to the Lords for the annexing *Dunkirk* and *Jamaica* to the Crown of *England*, which seemed to have the most universal Consent and Approbation from the whole Nation that ever
any

any Bill could be attended with ; yet the same Consideration Anno 13, Car.
 which retarded the Treaty with *Portugal*, made the King less II. 1661.
 warm towards the Advancement of that Bill : And the *Spanish* Ambassador was as solicitous to obstruct it, as he hath
 been since to obstruct the Match with *Portugal*. This being
 the Case, and the *Portugal* Ambassador returning with such
 particular Overtures to the King for a Marriage with the
 Daughter of that Crown, that, both in respect of Portion,
 and many other transcendent Advantages for the Advance-
 ment of the Trade and Empire of this Kingdom, the like
 hath not been offered in this Age : And his Majesty having
 received as full Information and Satisfaction in the Beauty
 and Excellency of that renowned Princess, as can be had
 without a personal Interview, (a Circumstance very rarely
 admitted to Princes) it was not in his Majesty's Power to be
 without some Approbation and Inclination to this Alliance :
 Yet even then he would not trust himself in this great Af-
 fair, which so nearly and so dearly concerned himself, and
 himself above all others ; tho' the Benefit and Advantage
 could but appear the same upon further Consultation, yet
 there might possibly be some Mischiefs or some Inconveni-
 encies discerned which he had not foreseen : He resolves there-
 fore to call his Council, tells them some Days before, that
 he had an Affair of great Importance to impart to them, and
 to receive their Advice in, and therefore appointed an ex-
 traordinary Day, that they might all appear, (and truly I
 think there was but one Lord absent, who was then indisposed
 in his Health.) In this Council he stated the whole Matter,
 all that was offered of Benefit and Advantage, all that occurred
 of Hazard or Inconvenience, without the least Discovery of
 his own Inclinations, further than that you would have be-
 lieved he had seen the Picture of his Mistress, it having been
 a Speech he hath often accustom'd himself to, that he would
 not marry a Woman he had not some Reason to believe he
 could love, tho' she could bring him the Empire of the
 World. He did not conceal from my Lords what the *Spanish*
 Ambassador had offered against this Marriage, (who is
 not over-reserved in giving Council, nor in communicating
 the Council he gives) what Proffers he has made of others,
 what Threats of War in one Case, what Advantage of
 Dowry in another ; that he is solicitous for the Advancement
 of the Protestant Religion, that he has offered several Pro-
 testant Princesses, to whom his Master shall give a Portion,
 as with the *Infanta* of *Spain*. And truly, less than the Uni-
 versal Monarch could not dispose of so many Princesses,
 without the least Consent or Privy of their own. His Ma-
 jesty commanded all my Lords to deliver their Council and
 Advice

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Advice freely, upon a full Prospect of what might appear good and happy for his People, as well as for himself: Assuring them, as he hath done you now this Day, That as he never did, so he never will do any thing of great Importance without consulting with them. You will believe that my Lords of the Council are solicitous enough for the Advancement of the Protestant Religion, upon which the Welfare of this Kingdom so much depends: But they were very apprehensive that the first Protestant Daughter that ever any King of *Spain* had to give would not probably bring so great Advantages to it as was pretended.

‘ They have no mind to encourage the King in a War; we have had War enough; but they do not think he should so much fear a War, as out of the Dread of it to be at the Disposal of another Prince; and that, when he hath freed his own Subjects from Wardships and from Liveries, he should himself become a Ward to the King of *Spain*, and not marry without his Approbation and Consent. They observed, that in the same Memorials (I do not mean that which he last printed, but a former) in which the *Spanish* Ambassador threatens War if the King marries with *Portugal*; he presseth very earnestly the delivering up of *Dunkirk* and *Jamaica*; and it is plain enough he would have the Recompence for the Portion he would give; and, in truth, whoever is against the Match with *Portugal*, is for the Delivery of *Dunkirk* and *Jamaica*; a War being as sure to follow from the latter as the former, and from neither, till the King of *Spain* finds it convenient for himself, which I hope he will not yet do. I will not enlarge upon the many Reasons, the King has told you the Conclusion. There was never a more unanimous Advice from any Council, not one dissenting Voice, in the beseeching his Majesty to make this Marriage, and to finish it with all the Expedition imaginable. Upon this he sent for the *Portugal* Ambassador, declared his Resolution to him, hath writ himself to *Portugal*, and is preparing his Fleet to fetch home our Queen. And I hope now he hath deserved all your Thanks, both for the Matter and the Manner; and that not only ourselves, but the Ages that are to succeed us, shall have Cause to bless God and his Majesty for this Resolution that he hath taken, and that he hath declared to us this Day, having obliged his Council to Secrecy, that he might himself communicate it to his whole Kingdom at once.

‘ There are some other Particulars of Weight, but he will not mingle them with this great important one, which must so much fill your Hearts and your Heads, but will reserve them till he sees you again, after you have chosen your
Speaker,

Speaker, which he now leaves you to do, and to repair to *Ann 17. Ch.*
your House for that Purpose, that you may present your *II. 166.*
Speaker unto him at Four of the Clock upon Friday.

*The Names of the LORDS Temporal in this present PARLIAM-
MENT, begun at Westminster the 8th Day of May, in the
13th Year of the Reign of our most Gracious Sovereign Lord
King CHARLES II, 1661.*

DUKES of the Blood-Royal.

James D. of York and Albany, L. High Admiral of England.

Rupert, Duke of Cumberland.

These take place in respect of their Office.

Edward, Earl of Clarendon, Thomas, Earl of Southampton,
Lord Chancellor of Eng- Lord Treasurer of England.
land.

D U K E S.

George, Duke of Buckingham. George, Duke of Albemarle,
Charles, Duke of Richmond. General of the Armies.

M A R Q U I S S E S.

John, Marquis of Winchester. William, Marq. of Newcastle.
Edward, Marq. of Worcester. Henry, Marquis of Dorchester.

E A R L S.

Montagu, Earl of Lindsey, John, Earl of Bridgewater.
Lord High Chamberlain of Robert, Earl of Leicester.
England. James, Earl of Northampton.
James, Earl of Brecknock, Charles, Earl of Warwick.
Lord Steward of his Ma- William, Earl of Devonshire.
jesty's Household. Basil, Earl of Denbigh.
Edward, Earl of Manchester, George, Earl of Bristol.
Lord Chamberlain of the Lionel, Earl of Middlesex and
Household. Holland.
Aubrey, Earl of Oxford. John, Earl of Clare.
Algernon, Earl of Northumb. Oliver, Earl of Bolingbroke.
Francis, Earl of Shrewsbury. Mildmay, E. of Westmoreland.
Charles, Earl of Derby. Thomas, Earl of Berkshire.
John, Earl of Rutland. Thomas, Earl of Cleveland.
William, Earl of Bedford. Edward, Earl of Mulgrave.
Philip, Earl of Pembroke and Henry, Earl of Monmouth.
Montgomery. James, Earl of Marlborough.
Theophilus, Earl of Lincoln. Thomas, Earl of Rivers.
Charles, Earl of Nottingham. Henry, Earl of Dover.
James, Earl of Suffolk. Henry, Earl of Peterborough.
Richard, Earl of Dorset. Henry, Earl of Stamford.
William, Earl of Salisbury. Henry, Earl of Winchelsea.
John, Earl of Exeter. Charles, Earl of Carnarvon.

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Anno 13, Car. Mountjoy, Earl of Newport.

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John, Earl of Thanet.

Jeremy, Earl of Portland.

William, Earl of Stafford.

Robert, Earl of Sunderland.

James, Earl of Suffex.

George, Earl of Norwich.

Nicholas, Earl of Scarfsdale.

Henry, Earl of St. Albans.

Edward, Earl of Sandwich.

Edward, Earl of Clarendon.

Arthur, Earl of Essex.

Thomas, Earl of Cardigan.

Arthur, Earl of Anglesey.

John, Earl of Bath.

Charles, Earl of Carlisle.

VISCOUNTS.

Leicester, Viscount Hereford.

Francis, Viscount Montague.

William, Viscount Say & Seal.

Edward, Viscount Conway.

Baptist, Viscount Cambden.

William, Viscount Stafford.

Thomas, Viscount Falconberge.

John, Viscount Mordant.

BARONS.

John Lord Nevill, of Abergavenny.

James Lord Touchet of Audley.

Charles Lord West Delaware.

George Lord Berkley, of Berkley.

Thomas Lord Parker, of Morley and Montegle.

Francis Lord Dacres.

Conyers Lord Darcy, of Darcy.

William Lord Stourton, of Stourton.

William Lord Sandys, Delevyne.

Edward Lord Vaux, of Harrowden.

Thomas Lord Windsor.

Thomas Lord Wentworth.

Wingfield Lord Cromwell.

George Lord Bruce.

Philip Lord Wharton of Wharston.

Francis Lord Willoughby of Parham.

William Lord Paget, of Beauchamp.

Dudley Lord Norb.

William Lord Chandos, of Sudeley.

John Lord Carey, of Hunsdon.

William Lord Peter.

Lord Gerard, of Gerards Bromley.

Charles Lord Stanhope, of Harrington.

Henry Lord Arundel of Wardour.

Christopher Lord Roper, of Tenham.

Robert Lord Brooke.

Edward Lord Montague, of Boughton.

Charles Lord Howard, of Charlton.

William Lord Grey, of Warke.

John Lord Roberts of Truro.

William Lord Craven of Hampstead, Marshal.

John Lord Lovelace of Hurley.

John Lord Paulet, of Hinton St. George.

William Lord Maynard.

Thomas Lord Coventry, of Aylesborough.

Edward Lord Howard, of Esrick.

William Lord Mobun.

Philip Lord Herbert, of Powis.

Edward Lord Herbert of Chisbury.

Francis.

Francis Lord Seymour of Trow- John Lord Bellasis.
 bridge, Chancellor of the Lodowick Lord Watson, of
 Dutchy of Lancaster. Rockingham.
 Thomas Lord Bruce of Whar- Charles Lord Gerard of Bran-
 ton. don.
 Francis Lord Newport, of Robert Lord Sutton, of Lex-
 Higbarcall. ington.
 Thomas Lord Leigh. Charles Lord Kirkboven of
 Christopher Lord Hatton. Wotton.
 Henry Lord Hastings of Lough- Marmaduke Lord Langdale of
 borough. Holme.
 Richard Lord Byron. William Lord Crofts.
 Richard Lord Vaughan. John Lord Berkley, of Strat-
 Charles Lord Smith of Car- ton.
 rington. Denzil Lord Hollis, of Ifeild.
 William Lord Widdrington. Frederick Lord Cornwallis of
 Humble Lord Ward. Eye.
 Thomas Lord Colepeper of George Lord Delamere of Dun-
 Thoresway. ham Massey.
 Isaac Lord Asley of Bram- Horatio Lord Townsend of
 ford. Lynn Regis.
 Richard Lord Boyle, of Clif- Anthony Lord Asbley, de Win-
 ford. born Saint Giles.
 John Lord Lucas. John Lord Crew de Stene.

Dukes 5
 Marquisses 4
 Earls 58
 Viscounts 8
 Barons 68

In all 143

The Names of the ASSISTANTS in the House of PEERS.

Robert Foster, Knt. Chief Justice of the King's Bench.
 Harbottle Grimston, Bart. Master of the Rolls.
 Orlando Bridgman, Knt. and Bart. Chief Justice of
 the Common Pleas.
 Matthew Hale, Chief Baron of the Exchequer.
 Thomas Mallet, Knt. one of the Justices of the King's
 Bench.
 Thomas Twissden, Knt. one other of the Justices of the
 King's Bench.
 Wadham Windham, Knt. one other Justice of the
 King's Bench.
 Robert Hyde, Knt. one of the Justices of the Common
 Pleas.

E 2

Thomas

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Thomas Terill, Knt. one other Justice of the Common Pleas.
Samuel Brown, Knt. one other Justice of the Common Pleas.
 SIR *Edward Atkins*, Knt. } Barons of the Exchequer.
Christopher Turner, Knt. }
Jeffery Palmer, Knt. Attorney General.
John Glynn, Knt. } Serjeants at Law.
William Wilde, Knt. }
Edward Nicholas, Knt. Chief Secretary.

Masters of the Chancery attending according to the Direction of the Lord Chancellor.

The OFFICERS attending there.

The Clerk of the Crown.
 The Clerk of the Parliament.
 The Usher of the Black Rod.
 The Yeoman Usher.

The Precedencies of the Lords in Parliament, &c. as established by Act of Parliament, 31 H. 8. 10. are as follow:

Precedencies of
the Lords in
Parliament.

Forasmuch as in all great Councils and Congregations of Men, having sundry Degrees and Offices in the Commonwealth, it is very requisite and convenient that an Order should be had and taken for the placing and sitting of such Persons as be bound to resort to the same, to the intent that they, knowing their Places, may use the same without Displeasure or Let of the Councils. Therefore the King's most Royal Majesty, although it appertaineth unto his Prerogative Royal, to give such Honour, Reputation, and placing to his Councillors, and other his Subjects, as shall be seeming to his most excellent Wisdom, is nevertheless pleased and contented for an Order to be had and retaken in this his most high Court of Parliament, that it shall be enacted in Manner and Form as hereafter followeth:

None shall sit on
either Side of
the Cloth of
State.

1. That no Person or Persons, of what Estate, Degree, or Condition soever, he or they be, (except only the King's Children) shall, at any time hereafter, attempt or presume to sit, or have any Place at any Side of the Cloth of Estate in the Parliament-Chamber, neither of one Hand of the King's Majesty, nor of the other, whether the King's Majesty be there personally present or absent.

The King's
Vicegerent,

2 Every Person which shall have the Office of Vicegerent Ecclesiastical of the Grant of the King's Highness, his Heirs or Successors shall sit and be placed in this and all Parliaments

fiaments hereafter, to be holden on the right Side of the Anno 13, Car.
Parliament-Chamber, and upon the same Form that the Arch- II. 166,
bishop of *Canterbury* sitteth on, and above the said Archbi-
shop and his Successors, and shall have Voice in every Parli-
ament to assent or dissent, as other the Lords of the Parlia-
ment.

3. That next to the Vicegerent shall sit the Archbishop of *How the Bi-
Canterbury*, and then next to him on the same Form and Side-shops are placed
the Archbishop of *York*, and next to him on the same Form in Parliament,
and Side the Bishop of *London*, and next to him on the same
Side and Form, the Bishop of *Winchester*, and then all other
Bishops shall sit and be placed on the same Side after their
Ancienties as it hath been accustomed.

4. That the Lord Chancellor, the Lord Treasurer, the
Lord President of the King's Council, and the Lord Privy
Seal, being of the Degree of Barons of the Parliament,
or above, shall sit and be placed as well in this, as in all
other Parliaments hereafter, to be holden on the left Side of
the said Parliament Chamber, on the higher Part of the
Form of the same Side above all Dukes, except only such
as shall happen to be the King's Son, the King's Brother,
the King's Nephew, or the King's Brother's or Sister's Sons.

5. That the Great Chamberlain, the Constable, the Mar-
shal, the Lord Admiral, the Great Master, or Lord Steward,
the King's Chamberlain, &c. shall sit and be placed after
the Lord Privy Seal, in manner and form following, that
is to say, every of them shall sit and be placed above all
other Personages, being of the same Estates or Degrees, that
they shall happen to be of.

6. That the King's chief Secretary, being of the Degree The King's
of a Baron of the Parliament, shall sit and be placed afore Secretary.
and above all Barons, not having any of the Offices afore-
mentioned; and if he be a Bishop, that then he shall sit and
be placed above all other Bishops, not having any of the
Offices aforementioned.

7. All Dukes, Marquesses, Earls, Viscounts, and Barons,
not aforementioned, nor having any of the Offices aforesaid,
shall sit and be placed after their Ancientie, as it hath been
accustomed.

8. That if any Person or Persons which at any time here- The Places of
after shall happen to have any of the said Offices of Lord great Officers
Chancellor, Lord Treasurer, Lord President of the King's under the Degree
Council, Lord Privy Seal, or Chief Secretary, who is of Barons.
is under the Degree of a Baron of the Parliament, by Rea-
son whereof they can have no Interest to give any Assent
or Dissent in the said House, that then, in every such Case,
such

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such of them as shall happen to be under the Degree of a Baron, shall sit and be placed at the uppermost Part of the Woofsacks, in the midst of the said Parliament Chamber, either there to sit upon one Form, or upon the uppermost Woofsack, the one of them above the other in Order, as is above rehearsed.

Places in Trial
by Peers.

9. That in all Trials of Treasons by Peers of this Realm, if any of the Peers that shall be called hereafter to be Triers of such Treasons, shall happen to have any of the Offices aforesaid, that then they, having such Offices, shall sit and be placed according to their Offices, above all the other Peers that shall be called to such Trial, in manner and form as is above mentioned and rehearsed.

10. That as well in all Parliaments, and in all other Assemblies and Conferences of Councils, the Lord Chancellor, the Lord Treasurer, the Lord President, the Lord Privy Seal, the great Chamberlain, the Constable, the Marshal, the Lord Admiral, the Grand Master, or Lord Steward, the King's Chamberlain, and the King's chief Secretary, shall sit and be placed in such Order and Fashion as is above rehearsed, and not in any other Place.

Bishops restored
to their Seats in
Parliament.

The most important Transaction of this Parliament was the Restoration of the Bishops; and 'tis remarkable, this was done by a formal Bill for that Purpose, which took its Rise in the House of Commons, to whose Resentments they, before, owed their Expulsion: But as this Bill was not passed till *July* the 31st, which was the Day of Adjournment, those Right Reverend Lords did not take their Seats till the next Sitting.

With regard to the rest of the Remarkables of this Session, they may be found in *CHANDLER'S Hist. Anno 1661*. both Houses seeming to have taken almost every Measure in Conjunction.

The following was the only Protest of this Session.

Die Mercurii 17^o Julii, 1661.

Bill to make
void Fines le-
vied by Sir Ed-
ward Powell,
passed.

Hodie 3^a vice lecta est Billa, An Act for making void divers Fines, unduely procured, to be levied by Sir *Edward Powell*, Knt. and Bart. and Dame *Mary* his Wife.

The Question being put, whether this Bill, with the Proviso, shall pass for a Law?

It was resolved in the Affirmative.

Protest thereon.

Whereas before the Question was put for passing the said Bill, Leave was desir'd for entering Protections of divers Lords, in case the Vote should be carried for passing the said Bill; we whose Names are underwritten do protest against the said Bill for these Reasons following;

1st,

1st, That Fines are the Foundations upon which most Titles of this Realm do depend, and therefore ought not to be shaken, for the great Inconvenience that is likely to follow thereupon. Anno 13, Cap. II. 1661.

2^{dly}, Such Proceeding is contrary to the Statute of 25 Edward I. now in force, which saith, Forasmuch as Fines levied in our Court ought and do make an end of all Matters; and therefore principally are called Fines.

3^{dly}, And to another Statute, made in the fifth Year of King Edward III. where it is enacted, That no Man shall be forejudged of Lands or Tenements, Goods or Chattels, contrary to the Term of the Great Charter.

4^{thly}, And to another Statute, made in the 28th of Edward III. where it is enacted, That no Man, of what Estate or Condition he be, shall be put out of Land or Tenement, nor disinherited, without being brought in to answer by due Process of Law.

5^{thly}, This Proceeding by Bill, as we conceive, is contrary to a Statute made in the fourth Year of King Henry IV. wherein it is declar'd, That in Pleas real and personal, after Judgment given in the Courts of our Lord the King, the Parties be made to come in upon grievous Pains, sometimes before the King himself, sometimes before the King's Council, and sometimes to the Parliament, to answer thereof anew, to the great impoverishing of the Parties, and in the Subversion of the Common Law; it is ordain'd, that after Judgment given in the Courts of our Lord the King, the Parties and Heirs shall be thereof in Peace until the Judgment be undone by Attaint or by Error, if there be Errors, as hath been used by the Laws in the Times of the King's Progenitors.

6^{thly}, The Proceedings upon this Bill have been, as we conceive, directly against the Statutes aforesaid, by calling Persons to answer of Judgments anew, given in the *Common Pleas*, and vacating the same without either Attaint or Error, and calling Persons to answer without the due and ancient Process of Law, and forejudging the Tenants of the Lands in question, without ever hearing of them.

7^{thly}, For that there hath not occurred to us one Precedent wherein any Fine hath been vacated by Act of Parliament without Consent of Parties, the Law looking upon Fines as always transacted by Consent, and with that Reverence, that neither Lunacy, Ideotism, nor any other Averment whatsoever, shall be admitted against Fines when perfected.

8^{thly}, We conceive, to vacate Assurances by a future Law, good by the present Law, is unreasonable and of dangerous

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gerous Consequence, both in respect of what such a Precedent may produce upon the like Pretences, as also rendering Mens Minds so doubtful, that not only the Rude and Ignorant, but the Learned, may be at a Loss to make or receive a good Title.

9thly, For what it is aver'd in the said Bill, that all the Lady *Powell's* Servants were removed; whereas it appeared by Depositions in *Chancery*, that *Antonia Christiana*, one who had lived with the Lady *Powell* many Years, was not removed.

10thly, That Dr. *Goddard* a Physician, and *Faucault* an Apothecary, examined in the said Cause, did testify they saw no Fear in, or Force upon the Lady *Powell*; and had there been any, we conceive it impossible for a Woman to hide the Passion of Fear from a Physician, which is not easily disguised from a vulgar Eye; and *Faucault* the Apothecary deposed, that he was twice a Day with the said Lady *Powell* for one Month together immediately preceding her Death.

<i>W. Roberts,</i>	<i>Brecknock,</i>	<i>Portland,</i>
<i>Campden,</i>	<i>Will. Petre,</i>	<i>Albemarle,</i>
<i>Stafford,</i>	<i>Montagus,</i>	<i>Cbr. Hatton,</i>
<i>T. Willoughby,</i>		



SECOND SESSION of the Second Parliament.

NOVEMBER 20th, 1661, both Houses met again, and received a particular Compliment from the Throne on the Restoration of the Bishops*; after which the Lords proceeded on the Affair of the Regicides, which gave rise to several Debates; as likewise to a Bill for their Execution, which, after twice reading, was dropt.

The Court being likewise alarm'd with Rumours of Plots at this Time on foot, a joint Committee of both Houses was appointed to sit, notwithstanding the usual Recess at *Christmas*, in order to make Discoveries, and prepare a Report against the next Meeting; the Substance of which, as delivered by the Lord Chancellor *Clarendon*, was as follows:

The Chancellor's Account of some Plots.

* That there was found with *Salmon* a List of a hundred and sixty Officers of the late Army: That it was further discovered that there should have been a Meeting in *London* about the 10th of *December*, and that they intended about the

End

* To be found in CHANDLER's Hist. Anno 1661. P. 46.

End of *January* to have made sure of *Shrewsbury, Coventry, and Bristol*, and that they should rise in several Parts at once : That where they were prevalent, they should begin with Assassination, which moved one of them to relate, *That some of the late King's Judges were entertained in France, Holland and Germany, and held constant Correspondence with those, and were fomented by some foreign Princes.* That many Arms were bought in order to this Design, and that they bragged, *If they once got Footing, they should not want Means to carry on their Work.* That they were discovered by one of their Party, and his Relation confirmed by such Intelligence from abroad, as never failed.' He further told them, ' That at *Huntington* many there met under the Name of *Quakers*, that were not so, and rode there in Multitudes by Night, to the great Terror of his Majesty's good Subjects. That it might be wondered at, that some Proposals were not made to remedy this impending Evil : But the King had advised with the Duke of *Albemarle*, now present at this Committee, and has put two Troops into *Shrewsbury*, and as many into *Coventry*; who, by the way, have broken a great Knot of Thieves, and taken twenty. That a Rumour was spread, that the appointing of this Committee was only a Plot to govern by an Army ; but the Committee was very sensible of the real Danger, and hoped the Houses would be so too ; and that since all their Adversaries were united to destroy them, so they should unite to preserve themselves.'

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On these slight Pretences, the two great Securities for the Crown and the Clergy, provided by the Uniformity and Militia Bills, took place, of which, as well as the Corporation and Hearth-Money Bills, the Reader is desired to accept the following Particulars, being the best Account at present to be met with, of the mighty Access of Power thereby given, in one Session, to the Prerogative: By way of Introduction to which, it is necessary to observe, that the preceding Parliament, tho' elected with Restrictions as exclusive as well could be of the late and present King's Friends, was so forward, as, in the Act of Attainder of the Regicides, to use these remarkable Words: *Be it hereby declared, That, by the undoubted and fundamental Laws of this Kingdom, neither the Peers of this Realm, nor the Commons, nor both together in Parliament, or out of Parliament, nor the People collectively or representatively, nor any other Person whatsoever, ever had, have, hath, or ought to have any coercive Power over the Persons of the Kings of this Realm.* Answerable to this Declaration, the Militia-Act, passed in this Parliament, begins

Which gives
Rise to the U-
niformity and
Militia-Bill.

Some Account
with of the said Bill.

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with these Words; *Forasmuch as within all his Majesty's Realms and Dominions, the sole and supreme Power, Government, Command and Disposition of the Militia, and of all Forces by Sea and Land, and of all Forts and Places of Strength is, and by the Laws of England ever was, the undoubted Right of his Majesty, and his Royal Predecessors, Kings and Queens of England; and that both or either of the Houses of Parliament, cannot, or ought to pretend to the same; nor can, nor lawfully may raise or levy any War, offensive or defensive, against his Majesty, his Heirs, or lawful Successors, &c.* Not satisfied with these Words, which seemed to fence against all Evasion and Reserve, a particular Oath was added to be necessarily taken by all Lord-Lieutenants, Deputy-Lieutenants, Officers and Soldiers, by these Words; *I A. B. do declare and believe, that it is not lawful, upon any Pretence whatsoever, to take up Arms against the King; and that I do abhor that traiterous Position, that Arms may be taken by his Authority against his Person, or against those that are commissioned by him in pursuance of such military Commissions.* All these, put together, were so strong and expressive, that they seemed at once to give up the whole Constitution; and no wonder if many of the Laity, as well as Clergy, upon the Account of these Acts, espoused a Doctrine, which, if rigidly taken, was so very hard to be reconciled to the great Deliverance afterwards. But something ought to be remembered by way of Explanation; that when the latter Part of the Oath, the Words *commissioned by him*, which seemed most dangerous to the Constitution, came to be debated, it was moved in the House of Commons, and particularly pressed by that great Lawyer Sir John Vaughan, who offered many Instances of the Law-Books to shew, *That it was lawful in many Cases to take up Arms against those who were commissioned by the King;* and therefore offered this Amendment, *That the Word lawfully might be added to make all clear.* But the Attorney General, Sir Heneage Finch, answered, *That it was not necessary, for the very Word Commission imported it, since if it was not lawfully issued out to lawful Persons, and for a lawful Reason, it was no Commission;* and the whole House assented to this Interpretation. The same Word *lawfully* was likewise pressed to be added in the House of Peers by the Earl of Southampton himself; but much the same Answer, given in the House of Commons, was made to him by the Earl of Anglesey. But the former insisted to have the Words added, *Because it would clear all Difficulties with many, who, not having heard the particular Sense of both Houses, might fancy, that if any sort of Commission was granted, it would not be lawful*

to

to resist it. He did not prevail: For it was alledged as Anno 13, Car. II. 1661. a satisfactory Answer, *That this Explanation being the Sense of both Houses, it would be soon spread and known over the Nation.*

As to the Act of Uniformity, it was form'd with as much Skill and Exactness as it well cou'd be for introducing a strict Ministerial Conformity, according to the new Book of Common Prayer, and for excluding those Mischiefs, as they are call'd, that at first had crept into, and afterwards over-run the established Church. By this Act every Parson, Vicar, or other Minister, was oblig'd to conform before the Feast of St. Bartholomew next, upon Pain of losing all his Ecclesiastical Preferments; for the completing of which, these Words were to be us'd, *I A. B. do here declare my unfeigned Assent and Consent to all and every thing contained and prescrib'd in and by the Book entitl'd the Book of Common-Prayer, &c.* Every Person was likewise obliged to subscribe to a Declaration, containing the very Words of the foremention'd Oath in the Militia-Act; in which Declaration he was not only to promise to conform to the Liturgy of the Church of England, but likewise to renounce the solemn League and Covenant, declaring it to be an unlawful Oath, and impos'd upon the Subjects of this Realm against the known Laws and Liberties of the People. Several Penalties were annex'd to this Act; particularly, 'No Person shou'd be capable of any Benefice, or presume to consecrate and administer the holy Sacrament of the Lord's Supper, before he be ordained Priest by Episcopal Ordination, upon Pain to forfeit for every Offence the Sum of one hundred Pounds.' And because Lecturers had been great Instruments in inflaming the People towards the late Miseries of the Nation, none were allow'd by this Act, unless approv'd and licens'd by the Archbishop or Bishop of the Diocese; and as to reading the Common-Prayer, making the Declarations, &c. they were put under stricter Limitations than the legal Ministers of Parishes. These and several other Things were contain'd in this famous Act, commonly call'd *The Bartholomew Act*, because it took Place on that Day: an Act highly extol'd and exclaim'd against by different Parties, as it supported or disappointed their Expectations: Accordingly it has been call'd both the Glory and Disgrace of the Church, tho' the Laity as well as the Clergy were equally concern'd in the making of it. It press'd hard indeed upon the Principles of some good, as well as turbulent Ministers, and caus'd great Numbers of both to quit their Preferments.

Something likewise ought to be said of the Act for settling And of the an annual Revenue of Two Shillings upon every Fire-Hearth Money.

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Hearth, commonly call'd by the Name of Chimney-Money. It was a new Revenue design'd to be forever annex'd to the Crown of England; a Burthen that afterwards lay upon the Minds much heavier than the Fortunes of the People, especially upon the Account of the arbitrary way of collecting it; and therefore the Remission of it by King *William* afterwards was thought a wise Act of Popularity. This Tax afterwards amounted to about two hundred and fifty six thousand Pounds a Year; which, together with Tonnage and Poundage, Excise, and other Duties, in length of Time made the Revenue of this King to be more than double to any of his Predecessors since the Reformation.

And Corpora-
tion Acts.

The Act for regulating Corporations made a great Noise, and met with some Struggles in the House. It proved indeed a severe Mortification and a Blow to one Party, and made a mighty Alteration in several Places, which the Court was pleas'd to look upon as Nests of Sedition. Part of the Preamble very well shews the Design of the Act, namely, That the Succession in such Corporations may be most properly perpetuated in the Hands of Persons well affected to his Majesty, and the establish'd Government; it being too well known, that notwithstanding all his Majesty's Endeavours, and unparallel'd Indulgence, in pardoning all that is past, nevertheless many evil Spirits are still working: Therefore, for this, every Mayor, Alderman, Common-Council Man, or any other Officer in a Corporation, was oblig'd, besides the common Oath of Allegiance and Supremacy, and a particular Declaration against the Solemn League and Covenant, to take an Oath, declaring, *That it was not lawful, upon any Pretence whatsoever, to take Arms against the King; and that he did abhor that traiterous Position of taking Arms by his Authority against his Person, or against those commission'd by him.* And to put this in Execution the King was authoriz'd to grant a Commission to such Persons as he thought fit, to last above two Years, with sufficient Power to answer the Ends of the Act.

As likewise, that
for Reversing the
E. of Strafford's
Attainder.

Besides these public Acts, there was a particular one for the Reversing the Earl of *Strafford's* Attainder; of which the Preamble has been printed in foreign Countries, and deserves to be remember'd here as follows: 'Whereas *Thomas* late Earl of *Strafford* was impeach'd of High-Treason, upon Pretence of endeavouring to subvert the fundamental Laws, and call'd to a public and solemn Arraignment and Trial before the Peers in Parliament, where he made a particular Defence to every Article objected against him; (2) insomuch that the turbulent Party then seeing no Hopes to effect their unjust

just Designs by any ordinary Way and Method of Proceed- Anno 13, Car.
ing, did at last resolve to attempt the Destruction and At- II. 1661.
tairder of the said Earl by an Act of Parliament, to be there-
fore purposely made to condemn him upon accumulative
Treason, none of the pretended Crimes being Treason apart,
and so could not be in the whole, if they had been prov'd,
as they will not; (3) and also judg'd him guilty of construc-
tive Treason, that is, of levying War against the King, tho'
it was only the commanding an Order of the Council Board
in *Ireland* to be executed by a Serjeant at Arms, and three
or four Soldiers, which was the constant Practice of the De-
puties there for a long Time: (4) To which end they hav-
ing first presented a Bill for this Intent to the House of Com-
mons, and finding there more Opposition than they expected,
they caused a Multitude of tumultuous Persons to come down
to *Westminster*, arm'd with Swords and Staves, and to fill
both the *Palace-Yards*, and all the Approaches to both Houses
of Parliament, with Fury and Clamour, and to require Justice,
speedy Justice against the Earl of *Strafford*! (5) And having
by these, and other undue Practices, obtain'd that Bill to pass
in the House of Commons, they caused the Names of those
resolute Gentlemen, who in cause of innocent Blood had
freely discharged their Consciences, being nine and fifty, to
be posted up in several Places about the Cities of *London* and
Westminster, and stil'd them *Straffordians*, and Enemies to
their Country; hoping thereby to deliver them up to the
Fury of the People, whom they had endeavour'd to incense
against them, (6) and then procured the said Bill to be sent
up to the House of Peers, where it having some time rested
under great Deliberation, at last, in a time when a great
Part of the Peers were absent by reason of the Tumults, and
many of those who were present protested against it, the said
Bill passed in the House of Peers: (7) And at length his late
Majesty King *Charles* the First, of glorious Memory, granted
a Commission for giving his Royal Assent thereunto; which
nevertheless was done by his said Majesty with exceeding
great Sorrow then, and ever remember'd by him with in-
expressible Grief of Heart; and out of his Majesty's Piety he
did publicly express it when his own sacred Life was taken
away by the most detestable Traitors that ever were. For all
which Causes, &c.'

The distress'd Cavaliers, likewise, set forth their miser-
able Case this Session in the following remarkable and
excellent Paper; which drew an Aid in their Favour of
60000 l. *

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An humble Representation of the sad Condition of many of the King's Party; who, since his Majesty's happy Restoration, have no Relief, and but languishing Hopes Together with Proposals how some of them may be speedily relieved, and others assured thereof, within a reasonable Time.

• What Miseries and Persecutions we Royalists have suffered, for nineteen Years past, no one, we presume, is a Stranger to, that could see, or hear. The War began with the Plunder of our Goods and Seizure of our Rents, and it ended with the Sale of our Estates, or, at best, a Composition, which engaged us in Debts; the Burthen whereof, where the Parties were either indebted before, or had Families to provide for, could not but be ruinous to them: Such of us as had no Lands, but lived by their honest Endeavours, were not only thrust out of their proper Employments, but made incapable of any other that could afford them a tolerable Subsistence, so as many, the most deserving of their Country, have been forced to part with their Inheritances to buy them Bread: Others, of free and generous Minds, have languished in tedious Imprisonments: Few, in comparison of the rest, by singular Providence and Frugality, have preserved themselves.

• With what Courage and Constancy of Affection we have owned our Cause, and Party, even then, when but to name them civilly was Treason, and worse, if worse could be; with what Faith and Perseverance we have expected our King's Return; with what invisible Comforts we have supported our feeble Hopes, at their lowest Ebbs of outward Possibility, whilst all the Politicians derided us as fond and credulous Persons, who, with the Purgatory of wise Men, purchased only the Paradise of Fools; a kind of *Alchymists*, or *Jews*, who looked for a *Messiah* that would come; and this Confidence (grounded chiefly on our Integrity) how it engaged us in Attempts, which, perhaps, were more honest than prudent, by opposing Plots to Councils, and Tumults to the best Armies; will not, I trust, be forgotten by *Englishmen* in our Days.

• Let it not be once objected, that our Endeavours were not successful: Rather, let it be construed to our Advantage, that though our Valour was at first unfortunate, yet (through God's Blessing) our chearful Patience hath, at length, fulfilled our Hopes, by Degrees, inclining the Hearts of the most obstinate to a relenting; wherein, as our Trials were, so our Triumphs

Triumphs are now the greater; for to prevail by loyal Sufferings, is the Prerogative of true Desert.

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‘ We joyfully, indeed, partake in the Glory of his Majesty’s Restitution, the Peace of our Country, the Security of Laws, and the Prospect of future Settlements, which are most pleasant to us: But, alas, we are still exposed to the same Necessities, nay, many of us are in worse Condition, as to Livelihood, than ever, partly by exhausting ourselves with unusual Expences, that we might appear (like ourselves) concerned in his Majesty’s Welcome, and Coronation; partly, by prosecuting honest, but fruitless, Pretences, chiefly by the Fate of Poverty, which seldom continues without increasing, and, for the Accomplishment of our Misery, Hope, which hitherto alone befriended and supported, hath now forsaken us.

‘ Were our Pressures moderate, or common, we should never mention them, but wait yet further upon Providence; for we reckon our Martyrdom so honourable, and our Cause so dear, that none but extreme Exigents would be sensible on that Behalf, such Poverty being (we are sure) without Reproach; had we complied with any of the late Usurpers, otherwise than as Prisoners must comply with Goalers, we should not have dared to look backward, nor presumed to look forward: But Innocency and Extremity together imbolden, or rather compel us to utter our Complaints, where we think we may challenge, at least, a favourable Audience.

‘ For, since the Cause, we so earnestly contended for, was indeed least of all, our own (who might easily have saved our Stakes, as many others of the same Persuasion did) and but in Part the Kings, principally our Countries, whose Liberty, and even its Being was at stake; it may seem a hard Piece of Justice, that the Price of public Freedom (when restor’d) should be the Ruin only of such, as with their utmost Perils chiefly asserted it; and the Nation will appear (at least equally with his Majesty) concerned in an Expedient, lest if the Martyrs and Champions of their Country be now, by it forsaken, (they being disabled by their Sufferings, and others by their ill Success discouraged) hereafter, in the like Exigent, which God prevent, our Liberties should find neither Champions, nor Martyrs.

‘ It grieves us, in all serious Companies, to meet with these and the like Reflections; how will it discourage our tender Plants of Loyalty, to be the Spectators of its Ruin? How will it multiply Neuters, to observe noble Families extirpated, and their Estates possessed, as many will be apt enough to collect, by wiser Men? viz. such as took the strongest side. And may not the next Generation, from such

Anno 13, Car. II. 1661. such Premisses, draw this Conclusion, *He loves Danger too well, that loves it for its own Sake?*

‘ Certainly, it were too much Ignorance in us to suppose, that his Majesty is able to contribute, in any proportion, to our Relief; rather, we are sensible, that, should he impoverish himself, to gratify us, he would soon be in a Condition, neither to support us nor himself; besides, we are satisfied of his Kindness towards us: But our recourse is (properly) to the Parliament, who (being equally concerned) can relieve us more powerfully, and with less Exception, wherein, we doubt not of his Majesty’s gracious Concurrence, and Furtherance.

‘ Wherefore, not to importune his Majesty, (who, no doubt, hath a real and tender Sympathy for us) we do (with much Freedom, but with all Submission) declare to our Representatives, as to good *Englishmen*, That as we, on our Part, shall for public Good, as cheerfully subscribe to the general Indemnity (when by their Wisdoms confirm’d) as any that have Benefit thereby; so if they, on their Part, shall, by confirming it, intercept those Remedies which the Law, our great Birth-Right, would afford us; we conceive, they oblige themselves to study somewhat of Recompence, lest they give us Subject of Complaint, That, in such an Oblivion, they did but too well remember our Enemies and only forget us.

And in truth, we hope, that the People in general, whose Peace is thereby established, our Friends in particular, whose Honour is thereby asserted; but especially our late Adversaries, whose Interests are thereby redeemed at our Expence, will frankly approve of such moderate Satisfaction to us, as the Parliament, in their Wisdoms, shall think reasonable.

The rather, for that the Arrears of the late Army and Navy, though contracted most of them in Times of Usurpation, being in effect discharged; those of his Majesty’s Party in *Ireland*, provided for by special Allotments in his Majesty’s late Declaration concerning that Kingdom; the Purchasers of Crown and Church Lands, protected by his Majesty’s Commission in their Favours; the Clergy, not only restored to the improved Possessions, but to Fines of twenty Years Growth; many private Persons rewarded with great Gifts, Offices, and Honours; we only seem abandoned as worthy of nothing but Pity from those that will vouchsafe it, unless our Condition may be consider’d by our Country in this Parliament.

‘ Wherein, for their Encouragement, we assure them, our Pretences are not lofty, we covet not to engross the Plenty of the Nation, by purchasing Palaces and Parks with our Debentures: No; the Sum of our Misfortune is, that in this Estate, we are not only burdensome to ourselves and Friends,

but useless to our King and Country ; alas we have too long conversed with Ruin, to conceive vast Hopes ; and if, upon serious Scrutiny, greater Difficulties should appear, than we imagine, it is our known Fundamental to acquiesce in the Judgment of our Superiors ; only we beg, that our Case may be judged, to deserve some public Consideration ; for, however, it will much enliven us, to find ourselves not wholly despised, but that Expedients to relieve us are, at last, debated, for which we humbly offer these our Proposals.

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II. 166.

1st. That the greatest Services may be most rewarded, but the greatest Necessities first relieved.

2^{dly}, That his Majesty would be graciously pleased to take an Account of all his Gifts and Grants, and suspend the conferring of any more, till Persons of the highest Sufferings and Deserts be, in some sort, accommodated.

3^{dly}, That the Sufferings, Wants, and Merits of Pretenders may be examined by select Committees, and certified to his Majesty, and that his Majesty would accordingly provide for their Relief, by giving express Orders for their Admittance to such vacant Employments as they are capable of, without referring them to subordinate Officers, whereby they may be wearied with Attendance, and his Majesty's Grace unto them frustrated.

4^{thly}, In case Vacancies be not found competent, that then Reversions may be assured to others.

5^{thly}, That such as have plentiful Estates, or have already obtained any considerable Grant from the King's Bounty, may be postponed, in his Majesty's, and the Parliament's Consideration.

6^{thly}, That such as shall appear to have unworthily betrayed, or any ways deserted his Majesty's Party, may be, from thence, wholly excluded.

7^{thly}, That deserving Tenants of Bishops, Deans and Chapters, &c. may be generally, and effectually recommended to the Church's Favour, in their great Plenty, to accept of moderate Fines from them.

8^{thly}, That the like public Recommendation may be made to all his Majesty's chief Ministers, Officers and Commanders, for the employing, countenancing, and encouraging, (by all lawful Means) such as have eminently deserved, or suffered for his Majesty.

9^{thly}, That for such Soldiers and Sufferers of his Majesty's Party, as are old, maimed, without Callings, or Stocks to exercise them, Provision may be made, according to their Conditions, *viz.* for some of them good Hospitals, the Founders whereof, doubtless, could they speak out of their Graves, would so direct ; for others reasonable Sums, or

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small

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small Annuities, but duly paid, that they may no more depend on private Alms, which many cannot find, and some cannot seek; this, we suppose, will prove rather Matter of Care, than much Charge.

10thly, That the Parliament would lay some public Assessment, such as they shall think reasonable, our Country's Poverty being considered as well as ours, to be distributed by his Majesty's Direction, amongst the surviving Officers and Soldiers of his Majesty's Armies, and those of the late King of blessed Memory, who never received any Recompence of their Service, whose Number being much contracted by Time and other Accidents, the Bulk will not prove so great as perhaps it seems.

11thly, That the Children of such as have been sacrificed, or died in the Bed of Honour, or done any memorable Action for his Majesty, (whose Catalogue is easily known) may, in due time, reap the Fruits of their Father's Martyrdom, and, for the present, receive some Character of signal Favour from their Country to be transmitted to Posterity, for the Encouragement of them and theirs, to follow the Footsteps of their noble Progenitors, to stir up in others an Emulation of such Loyalty and Virtue, and leave the Justice of his Majesty's Arms sufficiently vindicated to future Ages.'

For the King's and Chancellor's Speeches at the End of this Session, which, in this Reign, for the first time, was by Prorogation, see CHANDLER's *Hist.* Anno 14. Car. II. 1662. Page 56, 57, &c.

The Protests of this Session.

: *Die Martis 17^o Decembris, 1661.*

Amendments to the Bill concerning Corporations, agreed to.

This House entering into Consideration of the Amendments to the Bill concerning Corporations;

And the Question being put, whether to agree to the said Amendments?

It was resolved in the Affirmative.

Memorandum, That, before the putting the aforesaid Question, some Lords desired Leave to enter their Protestation, if the Question was carried in the Affirmative; and accordingly the Earl of *Bolingbroke* entered his Protestation upon these Reasons:

Protest thereon.

1st, That the Amendments to the Bill touching Corporations, he conceives, are against the Privileges granted by the Great Charter in the 9th and 29th Chart. by many several Acts confirm'd.

2dly, That the Power herein granted is against judicial Trials, which proceed by Oath.

Bolingbroke.

Die

Die Jovis 6^o Februarii, 1661-2.

Anno 13, Cap.

II. 1661-14

Hodie 3^a vice lecta est Billa, An Act for the restoring of Charles Earl of Derby to the Manors of Hope, and Hopesdale-Mole, and Molefdale, in the County of Flint.

Bill to restore the E. of Derby to certain Estates, passed.

The Question being put, whether this Bill shall pass?

It was resolved in the Affirmative.

Whereas, before the Question was put for passing the said Bill, Leave was desired for entering a Protest on the Behalf of the Lords underwritten, in case the Vote upon the said Bill pass in the Affirmative; we, in pursuance thereof, according to the Course of Parliament in like Cases used, do enter our Protestation against the said Bill for these Reasons following:

Protest thereon.

That it appears to us, these two Manors were sold by the Earl of *Derby*, and in pursuance of Contracts desired and made by himself; that the Purchases are now in Possession thereof, by good Assurances in Law, as Deeds inrolled, Feoffments, Fines, Recoveries passed from the Earl and his Lady; that, we conceive, by a future Law to destroy Assurances, which are good by the standing Law, is of dangerous Consequence, and, in this Case, unreasonable, where the Contracts and Conveyances have appeared voluntary and desired on the Earl's Part, in whom there was no Disability to grant or convey, and the Proceedings on the Part of the Purchasers to have been, without Colour of Error or Crime; that we think it not reasonable by a new Law to create an Equity of Redemption after a Purchase fairly transacted and perfected, nor to require any Account from the Purchasers, when from the Nature of the Purchase we cannot reasonably expect it; and, particularly, we think it beyond all Pretence of Justice, that they should be required to account for the Sum of nine thousand Pounds, which they received for the Redemption of *Hawardine*, without any Allowance made to them for the Purchase thereof, which they made by Direction of the Earl of *Derby*, and for his Use, and were only reimbursed in this Sum of nine thousand Pounds, according to their Articles, when the said Earl sold this Manor to Serjeant *Glynne*; and the Business of *Hawardine* is altogether foreign, both to the Title and Substance of the Bill, and concerning which there hath not been any thing heard at the Bar, or otherwise.

Besides, we cannot look upon this but as a Breach of the Act of judicial Proceedings, when by a new Law we take away the Force of those Fines and Recoveries which by that Act were made good, and no less than a Trenching on the Act of Indemnity and Oblivion, when an Estate so fairly derived must be look'd upon as destroy'd, only in favour of the

Earl

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Earl of *Derby*, when no Argument from the Demerits of the Purchase could persuade it; and that this is of such a Consequence, as the same Favour can never be denied to any one hereafter that shall ask it; which, of Necessity, will infer a general Violation of that Act: This Bill tending to vacate the great Assurances of the Realm beforementioned, which may be of so dangerous Consequence, as to render buying and selling of Land insecure, uncertain and doubtful: It brings Titles into Examination in Parliament, after Judgments given, as those of Fines, contrary to the Statute of 4 Hen. IV. ch. 22. It doth not restore the Consideration given for the Purchase; it creates Suits and Contentions between the Parties, who have not, nor can have any about the said Lands without this Act; whereas the Authority of Parliament ought to be of last Resort, and to mend and end the Work of other Courts, but not to make Work for them; it seems to pass too soon, the Cause appearing in the Body of it, not to be ripe for Determination; and it is without Precedent, for Part of a Cause to be judged in one Court, and the rest of it in another; besides the Bill mentioneth some Practices of Purchases, which we conceive not proved.

Clarendon, C.
Manchester,
C. Warwick,
W. Grey,
Carlisle,
Essex,
Anglesey,
Windsor,
Suffolk,

Brecknock, S.
W. Roberts,
Portland,
W. Paget,
Bedford,
Stafford,
J. Bridgewater,
J. Burgevenny,

Bristol,
J. Northumberland,
P. Wharton.
Fauconberg,
F. Arundell,
Exeter,
Chesterfield,
Scarsdale.

Die Sabbati 8^o Februarii, 1661-2.

Bill for disunit-
ing certain Hun-
dreds from the
County of the
City of Glou-
cester.

Hodie 3^a vice lecta est Billa. An Act for disuniting the Hundreds of *Dudston* and *King's-Barton* from the County of the City of *Gloucester*, and restoring them to be Part of the City of *Gloucester*.

The Question being put, whether this Bill with the Amendments now read shall pass?

It was resolved in the Affirmative.

Protest thereon.

Before the putting of the aforesaid Question, the Earl of *Bolingbroke* desired Leave of the House to enter his Dissent, if the Question was carried in the Affirmative; which being granted, his Lordship dissented as followeth:

I dissent, conceiving it usual to confirm, not ordinary, but dangerous to vacate Grants made under the Great Seal, being the Great Assurances from the Crown. *Bolingbroke.*

Die

Die Luna 5^o Maii, 1662.

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II. 1662.

The Earl of *Bolingbroke* reported from the Committee the Bill for distributing three-score thousand Pounds amongst the indigent and loyal commisionated Officers, with certain Alterations and Amendments, which are offer'd to the Consideration of the House; the said Amendments were read twice, and then a Proviso was offered to the House for reserving the King's Right touching the disposing of the said three-score thousand Pounds, which was read.

A Proviso to reserve the King's Right touching the disposing of 60000l. amongst indigent Officers, refused.

And after a long Debate the Question being put, whether this Proviso, that hath been offer'd, shall be added to the Bill?

It was resolv'd in the Negative.

Memorandum, That the Earl of *Bolingbroke* desired Leave of the House to enter his Dissent, if the aforefaid Question was carried in the Negative; and enter'd his Dissent as follows:

On these Reasons, that I conceive the sole and supreme Power of disposing of Monies is in the King, and that no Aid ought to be disposed but by his sole Warrant and Commission; and consequently that no Person or Persons may any ways join therein without prejudicing his Majesty's Prerogative; and hereon only I desire the admitting the Proviso.

Bolingbroke.

Die Luna 19^o Maii, 1662.

The Lord *Ashley* reported the Effect of the free Conference with the House of Commons concerning the Alterations in the Bill for mending the common Highways; that the House of Commons do not agree to their Lordship's Amendments in the fourth Skin, forty-first and forty-second Lines, concerning Horses to go a-breast.

Report of a free Conference on a Bill for mending the Highways.

And in the fifth Skin, sixth Line, concerning the Penalty of forty Shillings for each Horse forfeited, the Commons do adhere as it stands in the Bill.

And as to their Lordships first and second Proviso's concerning the altering of those Bridges mentioned therein, the House of Commons do not agree to them; and they were commanded to insist upon it, that their Lordships had no right to offer such Proviso's, because they concern assessing of the Commons.

As to these Precedents, which their Lordships urged at the Conference, as that for repairing *Dover-Pier*, and the Bill for rating Persons to the Poor, and the Bill (in 4 & 5 *Philip and Mary*) for Assessing of Horse and Arms, all which began in the House of Peers; the Commons said, they are but single Precedents, and do not weigh with them.

The Lords conceiving this Business to be a Matter of great Concernment to the Privilege of the House of Peers, fell into

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A Debate
thereon.

into Debate concerning the leaving out these two Proviso's touching the altering of the two Bridges at the Charge therein mentioned; and the Question being proposed, whether this House do agree with the House of Commons in this Business, asserting their Privileges at a Conference?

The Question being put, whether this Question shall be now put?

It was resolved in the Affirmative.

Then the Question being put, whether this House do agree with the House of Commons, in leaving out the two Proviso's, asserting their Privileges at a Conference?

It was resolved in the Affirmative.

This House adheres to their Amendment for two Horses to go a-breast, and do agree with the House of Commons for the Penalty to be forty Shillings.

And Protest.

Whereas a Bill, entitled, *An Act for enlarging and amending the common Highways*, came from the House of Commons, unto which the Lords added two several Proviso's, laying a Charge for the Repair of two Bridges; which Proviso's were rejected by the House of Commons, upon this ground, given to the Lords at several Conferences by some Members of the House of Commons, *viz.* That the Lords have no Power to begin any Bill, or add any Clause to any Bill, that in any kind charged Money either for repairing or paving of Highways, mending of Bridges, or other public Use, which we conceived to be against the Privilege of this House, and many Precedents, as a Statute made in 4 & 5 Philip and Mary, for assessing all Persons therein mentioned for Horse-Arms; and Foot-Arms; and another Act in the Time of Queen Elizabeth, for Repair of *Dover-Pier*; and one other Act in the fifth Year of the said Queen, for Relief of the Poor; and other Acts: All which began in the House of Peers, and were assented to by the Commons, and by the Royal Assent passed into Laws. And whereas the House of Peers did, after the said Conference, pass this Vote in the Affirmative, *viz.* To agree with the House of Commons in leaving out the two Proviso's, asserting their Privileges at a Conference; and whereas, before the putting the said Vote, we whose Names are hereunto subscribed, desiring Liberty of our Dissent unto the said Vote, we do, for the Reasons above-said, and to assert so much as involves so important and ancient a Privilege of the House of Peers, enter our Dissent and Protestation against this Vote.

Roberts,

Hen. Chichester,

Essex,

E. Howard,

W. Maynard,

Bolingbroke,

Stafford,

Derby,

Lawarr,

Awdley,

T. Culpeper,

R. Byron,

Anglesey,

C. Warwick,

THIRD

THIRD SESSION of the Second Parliament.

FEBRUARY the 18th, 1662-3, both Houses met according to the Time prefix'd by the Prorogation; and the King open'd the Session, with a Speech desiring to be enabled to shew Indulgence to Dissenters, agreeable to a Declaration he had already set forth; which, giving Distaste to both Houses, produced a Series of Addresses and Answers; to be found in CHANDLER's *Hist. Anno 15. Car. II. 1662-3.* Page 61, 62, 63, 64, 65, 66.

But besides this Controversy with the King, another remarkable Affair took Place, which concern'd the House of Peers only; viz. The Charge prefer'd against the Lord Chancellor *Clarendon*, July the 10th, by *George Digbey*, Earl of *Bristol*; which consisted of the following Particulars:

1. That being in Place of highest Trust and Confidence with his Majesty, and having arrogated a Supreme Direction in all his Majesty's Affairs, both at Home and Abroad, he hath wickedly, and maliciously, and with a traiterous Intent to draw Scandal and Contempt upon his Majesty's Person, and

Articles prefer-
red against the
Earl of Clarendon
by the Earl
of Bristol.

to

* The said Declaration consisted of the following Particulars, viz. That it had been alleg'd against him, 1. That he intended nothing less than the Observation of the Act of Indemnity. 2. That upon the Presence of Plots, he intended to introduce a Military Way of Government. 3. That, notwithstanding his Promise from Breda, and Declaration for Liberty of Conscience, he had fetter'd the Scrupulous by the Act of Uniformity; and 4. That he was indulgent to Papists to such a Degree, as might endanger the Protestant Religion. To all these he gave particular and direct Answers; but as to the Act of Uniformity, he declar'd his own firm Adherence to it; only, for the Sake of others, he was ready and willing to dispense with some Matters in it. In the Conclusion he promis'd, 1. To punish by severe Laws that Licentiousness and Impiety, which, since the Dissolution of the Government, had overspread the Nation. 2. As well by Sumptuary Laws, as his own Example of Frugality, to restrain the Excess in Mens Expences, which was grown so general and exorbitant, beyond all Bounds, either of their Qualities or Fortunes. 3. So to retrench all his own ordinary and extraordinary Charges, as to bring them within the Compass of his settled Revenue, that thereby his Subjects might have little Cause to fear his frequent pressing them for new Assistances. And lastly, so to improve the good Consequences of these three Particulars to the Advancement of Trade, that all his Subjects finding the Advantage of them in that prime Foundation of Plenty, they might all, with Minds happily compos'd by his Indulgence, apply themselves comfortably to their several Vocations, in such a Manner as the private Interest of every one might encourage him to contribute to the general Prosperity.

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to alienate from him the Affections of his Subjects, abused the said Trust in manner following, *viz.*

‘ That he hath traiterously and maliciously endeavoured to alienate the Hearts of his Majesty’s Subjects from him by Words of his own, and by artificial Insinuations of his Creatures and Dependances, that his Majesty was inclined to Popery, and had a Design to alter the Religion established in this Kingdom.

‘ That, in pursuance of that traiterous Intent, he hath to several Persons of his Majesty’s Privy-Council, held Discourses to this effect, *viz.*

‘ That his Majesty was dangerously corrupted in his Religion, and inclined to Popery.

‘ That Persons of that Religion had such Access, and such Credit with him, that, unless there were a careful Eye had unto it, the Protestant Religion would be overthrown in this Kingdom; and, in pursuance of the said wicked and traiterous Intent, upon his Majesty’s admitting Sir *Henry Bennet* to be principal Secretary of State, in the Place of Mr. Secretary *Nicholas*, he hath said these Words, or Words to this Effect.

‘ *That his Majesty had given 10000 l. to remove a zealous Protestant, that he might bring into that Place of Trust a concealed Papist*, notwithstanding, that the said Sir *Henry Bennet* is known to have ever been both in his Profession and Practice constant to the Protestant Religion.

‘ That, in pursuance of the same traiterous Design, several near Friends and known Dependants of his, have said aloud, that, were it not for my Lord Chancellor’s standing in the Gap, Popery would be introduced in this Kingdom, or Words to that Effect.

‘ That, in pursuance of the aforesaid traiterous Design, he hath not only advised and persuaded the King to do such Things contrary to his own Reasons and Resolutions, as might confirm and increase the Scandal, which he had endeavoured to raise upon his Majesty as aforesaid, of his Favour to Popery, but more particularly to allow his Name to be used to the Pope and several Cardinals in the Solicitation of a Cardinal’s Cap for the Lord *Aubigny*, one of his own Subjects, and great *Almoner* at present to his Royal Consort the Queen.

‘ That, in pursuance of the same wicked and traiterous Design, he had recommended to be employed to the Pope one of his own Domesticks, Mr. *Richard Bealing*, a Person (tho’ an avow’d Papist) known to be trusted and employed by him in Dispatches and Negotiations concerning Affairs of the greatest Concernment to the Nation.

‘ That

* That; in pursuance of the said traiterous Design, he being chief Minister of State, did himself write by the said Mr. *Rich. Bealing*, Letters to several Cardinals, pressing them in the King's Name to induce the Pope to confer a Cardinal's Cap on the said Lord *Aubigny*, promising, in case it should be attained, Exemption to the Roman Catholics of *England* from the Penal Laws in Force against them; by which Address unto the Pope for that Ecclesiastical Dignity for one of his Majesty's Subjects and Domesticks, he hath, as far as from one Action can be inferred, traiterously acknowledged the Pope's Ecclesiastical Sovereignty, contrary to the known Laws of this Kingdom.

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* That, in pursuance of the same traiterous Design, he has called unto him several Priests and Jesuits, whom he knew to be Superiors of Orders here in *England*, and desired them to write to their Generals at *Rome*, to give their Help for the obtaining from the Pope the Cardinal's Cap for the Lord *Aubigny*, as aforesaid, promising great Favour to Papists here, in case it should be effected for him.

* That he hath promised to several Papists he would do his Endeavour, and said he hoped to compass the taking away all Penal Laws against them, which he did in pursuance of the traiterous Design aforesaid; to the end they may presume and grow vain upon his Patronage, and, by their publishing their Hopes of a Toleration, increase the Scandal endeavoured by him, and by his Emissaries, to be raised upon his Majesty throughout the Kingdom.

* That, in pursuance of the same traiterous Design, being entrusted with the Treaty betwixt his Majesty, and his Royal Consort the Queen, he concluded it upon Articles scandalous and dangerous to the Protestant Religion.

* That, in pursuance of the same traiterous Design, he concluded the same Marriage, and brought the King and Queen together, without any settled Agreement in what manner the Rites of Marriage should be performed, whereby the Queen refusing to be married by a Protestant Priest, in case of her being with Child, either the Succession should be made uncertain for want of the due Rites of Matrimony, or else his Majesty to be exposed to a Suspicion of having been married in his own Dominions by a *Romish* Priest, whereby all the former Scandals endeavoured to be raised upon his Majesty by the said Earl, as to point of Popery, might be confirmed and heightened.

* That, having thus traiterously endeavoured to alienate the Affections of his Majesty's Subjects from him upon the score of Religion, he hath endeavoured to make use of all the malicious Scandals and Jealousies, which he and his Emissaries had raised in his Majesty's Subjects, to raise from

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them unto himself the popular Applause of being the zealous Upholder of the Protestant Religion, and a Promoter of new Severities against Papists.

‘ That he hath traiterously endeavoured to alienate the Affections of his Majesty’s Subjects from him, by venting in his own Discourse, and by the Speeches of his nearest Relations and Emissaries, opprobrious Scandals against his Majesty’s Person and Course of Life, such as are not fit to be mentioned, unless Necessity in the way of Proof shall require it.

‘ That he hath traiterously endeavoured to alienate the Affections of his Highness the Duke of York from his Majesty, by suggesting unto him Jealousies as far as in him lay, and publishing abroad by his Emissaries, that his Majesty intended to Legitimate the Duke of *Monmouth*.

‘ That he hath wickedly and maliciously, contrary to the Duty of a Privy Councillor of *England*, and contrary to the perpetual and most important Interest of this Nation, persuaded his Majesty, against the Advice of the Lord General, to withdraw the *English* Garrisons out of *Scotland*, and to demolish all the Forts built there, at so vast a Charge to this Kingdom.

‘ That, his Majesty having been graciously pleased to communicate the Desires of the Parliament of *Scotland*, for the Removal of the said Garrisons to the Parliament of *England*, and to ask their Advice therein, the said Earl of *Clarendon*, not only persuaded his Majesty actually to remove those Garrisons, without expecting the Advice of his Parliament of *England* concerning it, but did, by Menaces of his Majesty’s Displeasure, deter several Members of Parliament from moving the House, as they intended, to enter upon Consideration of that Matter.

‘ That he had traiterously and maliciously endeavoured to alienate his Majesty’s Affections and Esteem from his Parliament, by telling his Majesty that there was never so weak and inconsiderable a House of Lords, nor never so weak and so heady a House of Commons, or Words to that Effect; and particularly, that it was better to sell *Dunkirk*, than to be at their Mercy for want of Money, or Words to that Effect.

‘ That he hath wickedly and maliciously, contrary to his Duty of Councillor, and to a known Law made last Sessions, by which Money was given, and particularly applied, for the maintaining of *Dunkirk*, advised and effected the Sale of the same to the *French* King.

‘ That he hath, contrary to Law, enriched himself and his Treasures by the Sale of Offices.

‘ That, contrary to his Duty, he hath wickedly and corruptly converted to his own Use, great and vast Sums of public

public Money raised in *Ireland* by way of Subsidy, private and public Benevolences, and otherwise given and intended to defray the Charge of Government in that Kingdom. By which means a supernumerary and disaffected Army hath been kept up there, for want of Money to pay them off, occasioned it seems to be, because of the late and present Distempers of that Kingdom.

‘ That having arrogated to himself a supreme Direction of all his Majesty’s Affairs, he hath, with a malicious and corrupt Intention, prevailed to have his Majesty’s Customs farmed at a far lower Rate than others do offer, and that by Persons, with some of whom he goes a Share in, that, and other Parts of Money resulting from his Majesty’s Revenue.’

July 10,
1663.

BRISTOL.

Die Veneris, 10 July, 1663.

‘ Ordered, by the Lords spiritual and temporal in Parliament assembled, that a Copy of the Articles or Charge of High Treason exhibited this Day by the Earl of *Bristol*, against the Lord Chancellor, be delivered to the Lord Chief Justice, who, with all the rest of the Judges, are to consider whether the said Charge hath been brought in regularly and legally, and whether it may be proceeded in, and how, and whether there be any Treason in it or no, and make Report thereof to this House on *Monday* next, if they can, or else as soon after as possibly they may.

Order thereon.

Which they did as follows :

‘ All the Judges being met at Serjeants-Inn, in *Fleet street*, my Lord of *Bristol* repaired to us thither, and desired to see the Order, which being read, he told us he came, out of respect, to know of us whether we were informed how it came into the House of Peers, whether as a Charge or not ; but one of the Judges, who had been present when it was delivered in, saying, *We were tied up by our Order*, his Lordship took some Exception at the manner of his Expression, as if his Lordship’s Address was unnecessary at that time, and, taking it as a Rebuke unto him, went away ; but, according to our Order, which supposed it to be a Charge of High Treason, and not mentioning Misdemeanour, we did upon Consideration unanimously agree upon this ensuing Answer, which on *Monday* the 13th of *July*, the Lord Chief Justice *Foster* did deliver in, *viz.*’

We conceive that a Charge of High Treason cannot, by the Laws and Statutes of this Realm, be originally exhibited by one Peer against another unto the House of Peers ; and that therefore a Charge of High Treason by the Earl of Bristol against the Lord Chancellor, mentioned in the Order of Reference to us of

Opinion of the
Judges.

H 2

the

Anno 15, Car. II. 1663. *the 10th of this Instant July, hath not been regularly and legally brought in; and if the Matters alledged in the said Charge were admitted to be true, altho' alledged to be traitterously done, yet there is no Treason in it.*

Lord Chief Justice Foster's Account of the Debates, &c. which followed.

‘ Which Answer being given in, the Earl of *Bristol* took some Exceptions at it; and some of the Lords inferred thence, that, if it were irregularly and illegally brought in, it was a Libel; but we satisfied them that it was not under Consideration of us, whether it came in as an Information or Charge; our Order required us to give Answer to it as a Charge.

‘ 2dly, We did not meddle with any thing concerning accusing him of Misdemeanour, for our Order reached only to Treason.

‘ 3dly, It did not follow that if this Charge were irregular, or illegal, that therefore he was criminal: There might be Precedents to give Colour to such kind of Proceedings, for which, till it be declared or known that they are illegal, they are titular, and ought not to be punished.

‘ But it was much insisted on, that we should deliver the Reason of our Opinions, the Lord of *Bristol* and his Friends seeming unsatisfied.

‘ We replied, That it was never known, when the Justices, to whom Questions were referred from Parliament had unanimously agreed in their Opinions, that Reasons were required from them. Yet, notwithstanding, it being the Desire of the Lords, after some Things premised, and a Desire that this should not be drawn into an Example, (which the Lords assented unto as I took it, for no Order was entered concerning it, there being no Order, as I think, for delivering our Reasons entered) and it was agreed amongst us, that no Note should be reduced, lest we might be required to deliver our Reasons in Writing; nor had I Time to digest it in Writing, having only *Monday Night*, after Conference with my Brethren, to think upon it: I did on the next *Tuesday*, being the 14th of *July*, deliver the Reasons of all the Judges, of their Opinions, by their Consents. To the first Point, *That a Charge of High Treason cannot originally be exhibited by one Peer against another unto the House of Peers*, the Emphasis of the Word *originally* was shewed.

‘ For 1st, an Indictment of Treason against a Peer may be removed up to the Lords House to be tried, as it was in the 31st of *Henry VI.* in the Earl of *Devonshire's* Case, but a Steward was then to be made.

‘ 2dly, If an Impeachment came from the House of Commons unto the Lords House, we did not take upon us the Consideration, whether this could be proceeded in or not, for

for it was not the Case to which we were required to give Answer. Anno 15, Car.
II. 1663.

‘ We replied : Upon the Statute 1 *Henry IV.* Chap. 14. which recites the many great Inconveniencies and Mischiefs by Appeals, and provides that all Appeals of Things within the Realm, shall be tried and determined by the good Laws of the Realm made and used in the Time of the King’s noble Progenitors, and Appeals of Things out of the Realm before the Constable and Marshal : But we relied upon the Clause ensuing, and thereupon it is accorded and assented, that no Appeals be from thenceforth made, or in any wise pursued in Parliament in Time to come. I shewed Appeals in this Statute, and Accusations by single Persons were one and the same thing, and that this Statute reached to all Appeals, Charges, Accusations or Impeachments delivered in, in Parliament, whereupon the Person accused was to be put to his Answer; and that there were but several Names of the same thing : I shewed first historically, that the Appeals in the 11 *Richard II.* and 21 *Richard II.* were but Accusations by those Lords of Felons against the other, and differed from the Case of the Duke of *Hereford* and *Norfolk*, which was to be tried as 21 *Richard II.* *Pl. Cor.* in *Parl. No.* 19. is by the Course of the Civil Law, and thereupon Battle was waged. That tho’ it concerned *Henry IV.* in Interest to confirm the 11 *Richard II.* and repeal the 21 *Richard II.* he being Appellant in the former, yet he saw the Mischief so great, that he himself made Provision against them for the Time to come ; and indeed, the Mischief was so great, that it ceased not after the Destruction of many Lords and Families (there being *Lex talionis* in that 21 *Richard II.* used towards most of those Appellants in the 11 *Richard II.*) till it tumbled King *Richard II.* first out of his Throne, and then into his Grave.

‘ That there were but two Sorts of Proceedings in *Capitalibus*, the Suit of the Party, which was called an Appeal; or the Suit of the King, who ought to proceed by Indictment, and so to Trial by *Magna Charta. Nec super eam ibimus*, &c. and that, in an Appeal, being the Suit of the Party, there was no Prerogative of Appearance, if it were an Appeal at the Common-Law, to *E. IV.* Lord *Gray’s Case*. That an Appeal was taken in our Law-Books frequently for an Accusation by the Party, I cited *Westm.* the 1st, cap. 14, where the Words *Appeal* reaches to Indictment. And 9 *Cook*, § 19. Lord *Zanchar’s Case*, that an Appeal of two Significations, one general and frequent in our Books for an Accusation, and *Stamford*, 142. In case of an Approver, the Felon after Confession may appeal, that is (saith he) accuse others,

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others, Coadjutors with him to do the Felony. C. C. 189. Appellant cometh from the *French* Word *Appeller*, which signifies to *accuse*, or *appeach*, and C. C. 287. Appeal signifieth an *Accusation*; and therefore to appeal a Man is as much as to accuse; and in antient Books, he that doth appeal a Man is called Accusator, *vide* 9 Ed. II. *Articuli Cleri*, cap. 16. That I knew no Reason why in those tumbling Times of Rich. II. (which caused this Statute, for the Statute-Roll is *comant ad auterment este us en temps la darren Roy*, Rich. II.) they should proceed by way of Appeal, but because they were then allowed at the Suit of the Party, to accuse any other of Treason; but at the King's Suit there ought to be an Indictment, and an Indictment could not be found but by Jury.

That in all other Cases, an Appeal was to be brought by the Party concerned, the Wife or Heir, or Party robbed, &c. But in case of Treason, any Man may appeal another, and therefore in all Reason it must be understood of an Accusation, and any Man might accuse another of Treason; and if it can be proved by Witnesses, it must not be tried by Battle, as other Appeals may. I concluded, that the 8 Hen. VI. No. 38, this Statute, the 1 Hen. IV. cap. 14. is recited, and desired it should be duely kept and put in Execution, which was granted, that *Stamford* 78. See *Pl. Cor.* 31. 132. agrees that Appeals of High-Treasons were not commonly used to be sued in Parliament, till the 1 Hen. VI. cap. 14. Since which Time this Manner of Appeal hath gone out of use; and I said, I had searched many Precedents, and, though late, there may be a Precedent (as it was of the Earl of *Bristol's* Father against the Duke of *Buckingham*, of some kind of Impeachment) yet I did confidently believe there was not since that Statute, 1 Hen. IV. any one Precedent of such an Impeachment at the Party-Suit whereupon there was any Indictment: In truth, in the Earl of *Bristol's* Case, the Commons House did impeach the Duke of Treason, and so the Earl of *Bristol's* Impeachment proceeded not.

For the second Point, *That there was no Treason in the Charge, though the Matters in it are alledged to be traiterously done.* I said, we had perused each Article *seriatim*, and we had found no Treason in them; the great Charge, which is endeavoured to be proved by many Particulars, was, *That he did traiterously, and maliciously, to bring the King into Contempt, and with an Intent to alien the People's Affections from him*, say, &c. such and such Words, &c.

And so it runs on, That in pursuance of the traiterous Intent, &c. he did, &c. and that in farther pursuance of the said traiterous Design, &c. And in like manner were most

of the Articles, upon which the Characters of Treason seem-
ed to be fixed. I said, that it is a transcendent Misprision,
or Offence, to endeavour to alienate the People's Affections
from him, but yet it was not Treason. This Statute, 13
Car. II. cap. 1. makes Treason during the King's Life: But
if a Man calls the King Heretic, or Papist, or that he en-
deavours to introduce Popery, (which is more in express
Terms than the Article of that kind insinuates) or by Words,
Preaching, Prayer, to stir up the People to Hatred or Dis-
like of the Person of his Majesty, or the Established Govern-
ment; the Penalty is only Disability to enjoy any Place Ec-
clesiastical, Civil, or Military, and subject to such Penalties
as by the Common-Law or Statute of this Realm may be
inflicted in such Case, (which is Fine and Ransom, with
Imprisonment) and it limits a Time and Manner of Prose-
cution.

Anno 31, Car.
II. 1663.

There was an Objection made Yesterday upon the 25
E. 3. That this being in Parliament, King and Parliament
had Power to declare Treason, and then we ought to have
delivered our Opinions with a Qualification, unless it be de-
clared Treason by Parliament, where this Charge is depend-
ing: To this I answer'd,

1st, 'Tis not Treason in *presenti*, and if such a Declara-
tion should be *non constat*, whether it would relate to the Time
past? Votes upon the
Question.

2^{dly}, That I conceived, that the Statute, as touching that
declaratory Power, extended but to such Cases as were clear-
ly Felony, as single Acts, if not Treason; the Words being,
Whether it be Treason, or other Felony; but, in respect of the
Doubts of Escheats, which, if Treason, belonged to the
King, if Felony, to the Lords of the Fee, it was left to the
Parliament. I did not say, we resolved the Point.

3^{dly}, That admitting the declaratory Power did extend to
other Cases than such as were before the Judges, and was
not taken away by 1 M. Cap. or any other Statute, yet I
read my Lord Cook's Opinion at large, Pl. Cor. fol. 22.
That this Declaration must be by the King, Lords, and Com-
mons, and by any two of them alone; and we were now
in a judicial Way before the House of Peers only; and I
did affirm, as clear Law, that, by this judicial Way, no Treas-
ons could be declared nor adjudged, but such as were ex-
pressly within the Letter of the 25 E. 3. and said, That Statute
25 E. 3. was a second *Magna Charta*, and that their An-
cestors thought it their greatest Security to narrow, and not
to enlarge Treason, and cited 1 H. IV. Cap. 10. to which
in the Parliament-Roll is added Rot. No. 17. (it coming of
the King's Free Grace,) That the Lords did much rejoice
and

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II. 1663.

and humbly thank the King : And I read the Statute 1 M.
cap. 1.

‘ That the now Earl of *Bristol* in my Lord of *Strafford’s* Case, was the great Assertor of the Law against constructive and accumulative Treason, which, if admitted, their Lordships could better suggest unto themselves than I express, how great a Door they would let open to other Inconveniences and Mischiefs to the Peerage. I concluded with referring to the Act, 14 Car. II. for reversing the Attainder of the Earl of *Strafford*; the first Part whereof I read to them, wherein is expressed, That they who condemned him, did purposely make an Act of Parliament to condemn him upon accumulative Treason, none of the pretended Crimes being Treason apart, and so could not be in the whole, if they had been proved.

‘ After I had spoken to this Effect, the Earl of *Bristol* seemed to acquiesce, in so much as concerned our Opinions as the Case was deliver’d to us ; but it being to be put to the Question, whether the Lords did concur with the Judges Opinions, and himself being concerned in the illative, that therefore the Charge was illegal and irregular ; yet not being intended by him, as he said as a Charge, but an Information, he desired (tho’ as the Case was put to us, it was a good Inference) that the voting of that might be spared till it was resolved by the Lords, whether he delivered it in as a Charge, or only as an Information for the Matter of the Charge, if it should be thought fit for their Lordships to proceed in it : After some Debate upon the Question, the Lords resolved the same Day according to our Opinions.

Votes thereon.

‘ 1st, That a Charge of High-Treason cannot, by the Laws and Statutes of this Realm, be originally exhibited by one Peer against another, unto the House of Peers.

2^{dly}, That in these Articles, if the Matters alledged in them were admitted to be true, that is no Treason in them, and because the Lords unanimously concurred in them, (my Lord of *Bristol* freely as any other) it was by Order entered, that these Votes were *Nemine Contradicente*.

A Note upon
the Case by the
Ld. chief justice.

‘ Note, That in Judge *Hatton’s* Reports, fol. the Resolution of the Judges is expressed to be, That a Peer cannot be impeached but by Indictment ; and Mr. *Rushworth*, in his Collections, fol. 272, expresses such an Opinion to be delivered by the Judges in 1 or 2 Car. but upon Search it was found to be entered in the Journal of Parliament of that Time, but it was cautious referring to the Common-Law only. But that for Proceedings in Parliament, it did not belong to them to determine, or to that Effect ; but no mention of 1 Hen. IV. cap. 14. It hath been credibly reported, that

that some of the Judges, in Lord *Strafford's* Case, being asked some Questions, did, with the like Caution, deliver their Opinions, and did speak with Reservations, (as the Case is put) though they, upon Hearing, did know the Case misput; which, after, troubled the Conscience of one of them, (*ut audiui*) being a grave learned Men. *Vide Peacock's Case, Cook, fol.* But we, having the Case referred to us in Parliament, upon Articles exhibited in Parliament, did resolve to deliver our Opinions without any such Reservation; and the Act of 1 Hen. IV. being express'd against Appeal in Parliament, (and of Acts of Parliaments after they are once made, none, under the King, and without him are Interpreters, but the Judges, *See King's Answer Printed, in the old Print of 3 Car. I. at the End of the Petition.*) And therefore did deliver these Opinions, which I conceive of great Benefit to the Lords themselves, and a just Ground for farther Enquiry to be made, whether such Impeachments may be in the House of Peers for other Misdemeanours, without the King's Leave, or being exhibited by his Attorney.

Anno 15, Car.
II. 1663.

And secondly, to take into Consideration the Validity of Impeachments of Treason by the House of Commons, notwithstanding the late Precedents which yet ended in a Bill, and so in the legislative, is not the judiciary Way,

During this Session, the Revenues of the Post-Office and Wine Licences, were settled on the Duke of York. And July the 27th, the King * prorogu'd both Houses till the next March, accordingly.

The Protests of this Session.

Die Veneris 24^o Julii, 1663.

A Bill, entitled, *An Act for the Encouragement of Trade*; being this Day read the third time, and ready to be put to the Question for passing into a Law; it was moved, and granted by the House, that if the Question passed in the Affirmative, such Peers as were against the Bill might enter their Protestation; and accordingly we whose Names are subscribed do protest against the said Bill being made a Law, for the Reasons following:

Bill for Encouragement of Trade pass'd.

1st, Because, in the free Liberty given for transporting of Money and Bullion, this Bill crosseth the Wisdom and Care of our Ancestors in all Ages, who by many Laws and Penalties, upon excellent and approved Grounds, have restrained such Exportation, and thereby preserved Trade in a flourishing Condition.

2dly, There appearing already great Want of Money in his Majesty's Dominions, and almost all the Gold of his Majesty's Stamp gone, notwithstanding the Restraint laid by 1663.

I

Law,

* See his Speech in Chand. Hist. Anno 15. Car. II. 1663. p. 71.

Anno 15, Car. Law, and the Importation of foreign Commodities (which
 II. 1663. are grown to so great an Esteem and Use amongst us) being
 much greater than the Export of our native and simple
 Commodities, it must necessarily follow, by this free Ex-
 portation, that our Silver will also be carried away into
 foreign Parts, and all Trade fail for want of Money, which
 is the Measure of it.

3dly, It will make all our native Commodities lie upon
 our Hands, when, rather than stay for gross Goode, which
 pay Custom, the Merchant, in a quarter of an Hour, when
 his Wind and Tide serve, freights his Ship with Silver.

4thly, It trencheth highly upon the King's Prerogative,
 he being by the Law the only Exchanger of Money, and
 his Interest equal to command that, as to command the Mi-
 litia of the Kingdom, which cannot subsist without it; and
 it is dangerous to the Peace of the Kingdom, when it shall
 be in the Power of half a Dozen or half a Score rich, dis-
 contented, or factious Persons, to make a Bank of our Coin
 and Bullion beyond the Seas for any Mischief, and leave us
 in want of Money; and it shall not be in the King's Power
 to prevent it, the Liberty being given by a Law; nor to
 keep his Mint going, because Money will yield more from
 than at the Mint.

5thly, Because a Law of so great Change, and threatening
 so much Danger, is made perpetual, and not probationer.

6thly, Because, in the Restraint laid on Importation of
Irish Cattle, common Right and the Subjects Liberty is in-
 vaded; whilst they, being by Law native *Englishmen*, are
 debarred the *English* Markets, which seems also to monopo-
 lize the Sale of Cattle to some of his Majesty's *English* Sub-
 jects, to the Destruction of others.

7thly, It will, we conceive, increase the King's Charge
 of *Ireland*, by calling for Revenue from *England*, if that,
 which is almost the only Trade of *Ireland*, shall be prohi-
 bited, as in effect it is; and so the People, we conceive, dis-
 abled to pay the King's Dues, or grant Subsidies in *Ireland*.

8thly, It threatens Danger to the Peace of the Kingdom
 of *Ireland*, by universal Poverty; which may have an un-
 happy Influence upon the rest of his Majesty's Dominions.

9thly, The Restraint upon Importation of *Irish* and *Scotch*
 Cattle will, we conceive, be Decay of two of his Majesty's
 Cities of *England*, *Carlisle* and *Chester*, make a Dearth in
London, and discommode many other Parts of *England*.
 Other Reasons are forborne, which Time will produce. *An-
 glesey*.

Die Sabbati 25^o Julii, 1663.

A Clause to a
 Bill for Relief
 of such as were

The Earl of *Bridgewater* reported from the Committee
 the Bill for Relief of such Persons as by Sickneis or other
 Impediment

Impediment were disabled from subscribing the Declaration in the *Act of Uniformity*, an Explanation of Part of the said Act; wherein the Committee made some Alterations and Amendments, and have added a Clause; which are offered to the Consideration of this House: The Amendments and Alterations were read twice, and agreed to; and then the Clause was read as follows:

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II. 1663-4.

disabled from
subscribing the
Declaration in
the Act of Con-
formity, agreed
to.

And be it enacted and declared by the Authority aforesaid, That the Declaration and Suspicion of Assent and Consent, in the said Act mentioned, shall be understood only as to the Practice and Obedience to the said Act, and not otherwise.

And the Question being put, whether to agree with the Committee in this Clause?

It was resolved in the Affirmative.

Memorandum, Before the putting of the aforesaid Question, divers Lords desired Leave to enter their Protestation if the Question was resolved in the Affirmative; which the House granted, and accordingly this Protestation was made by these Lords following:

In regard, we conceive, that this Clause in the Act, *viz.* (And be it enacted and declared by the Authority aforesaid, That the Declaration and Subscription of Assent and Consent, in the said Act and not otherwise) is destructive to the Church of *England* as now establish'd, we therefore have enter'd our Protestation against that Clause. Protest thereon.

James, D. of York, Cha. Gerrard, J. Bridgewater, W. Maynard, Berkshire, Dorset, T. Culpeper, Derby, Jo. Berkeley, Cornwallis, Mordaunt, J. Lucas, Peterborough, Northampton.



FOURTH SESSION of the Second Parliament.

WAS open'd March the 16th, 1663-4. with a most gracious * Speech from the Throne, as usual, warmly recommending the Repeal of the Triennial Act; which the Parliament had the extraordinary Complaisance to do with all possible Dispatch, and to introduce with the following as extraordinary Preamble.

Whereas the Act, &c. is in Derogation of his Majesty's just Rights and the Prerogatives inherent to the Imperial Crown of this Realm, for calling and assembling of Parliaments, and may be an Occasion of manifold Mischiefs and Inconveniencies, and much endanger the Peace and Safety of his Majesty, and all his liege People of this Realm. Preamble to the Repeal of the Triennial Act.

Anno 15, Car.
II. 1664.

The joint Proceedings of both Houses against the *Dutch*, (with whom we were then upon the Point of breaking, and the severe Bill against Conventicles, which was not completed till after several Conferences, were the principal Transactions of this Session; and of which a more explicit Account is given in *Chand. Hist. Anno 16. 1664. Car. II. Page 75, 76, 77, 78, 79*, as likewise, the King's Speech at the Prorogation.

It must not, however, be forgot, that the Earl of * *Bristol* preferr'd his Charge a second Time against the Lord Chancellor

* A remarkable Incident, likewise, brought the said Earl before the House of Commons, of which the best Account is to be found in his own Speech as follows :

MR. SPEAKER,

' Were I to be wrought upon by the Arts and Menaces of my Enemies, or by the Alarms of my Friends in my Behalf, contrary to the firmness and assurance which a clean Heart and a good Conscience does always uphold in a Man of Honour, I should have appear'd in this Place with such fear and trembling, as could not chuse but disorder any Man's Reason and Elocution: The niceness of the Subject upon which I am brought hither, were enough to discompose one; but over and above that, I am not ignorant what personal Prejudices I am under, and how industriously they have been improv'd among you. But when I look round this Illustrious Assembly, and see three Parts of it composed of Men who wear, as I do, a Sword by their Sides, and who have drawn it so often for the King's Service, Gentlemen of Birth, Integrity, Fortune, all Apprehensions vanish from a Man, who hath serv'd and suffer'd for the King as I have done. Mr. Speaker, I know the time of this House, upon whose prudent Deliberations the Happiness of the King and Kingdom depends, is too precious to have any part of it spent in vindication of me: But, since not only the Reputation and Innocence of one of your Members depends upon what I shall say, but even his Majesty's Honour may in some sort be concern'd in the right apprehension of it, I hope it will be thought no Presumption in me to beg of you, as I do, in all Humility, one quarter of an Hour's Patience and Attention.——Mr. Speaker, I am here expos'd as the Bearer of a Message to his Majesty from Sir Richard Temple, which he hath thought worthy to be complain'd of to this House, and which Sir Richard Temple affirms he never sent. Lay your Hands upon your Hearts, Gentlemen, and say truly, does not your innate Candour pity my Condition, brought into a freight, in all appearance so inextricable? For, on the one side, if I avow to have carried from Sir Richard Temple the Message, which his Majesty has been pleas'd to make so high and so unusual an Expression of his being offended at, and which Sir Richard Temple denies to have sent, how can Men of Honour forgive me so ungentlemanly a Proceeding towards a Person who hath trusted me, as a Friend, to do him (as he thought) a good Office with his Majesty? On the other side, Mr. Speaker, should I disavow the having deliver'd the Message from Sir Richard Temple, which his Majesty hath thought fit to affirm, that he received from him and by me, what Subject can be strong enough not to sink for ever under the weight of such a Contradiction to his Sovereign? I ask you again, Gentlemen, does not the Condition you see me brought into, by the Arts of my Enemies, move you at the same time to Pity and Indignation? Mr. Speaker, when David was put to his Choice of one of the three

cellor *Clarendon*, tho' with no better Success than before: The Peers seeming to think it had no other Foundation than the Spleen of an enraged and disappointed Enemy. Anno 15, Car. II. 1664.

The only Protest of this Session to be met with was as follows:

Die Martis 29^o Novembris, 1664.

The Question being put, whether these Words, *As it shall appear to him to be on either Part, notwithstanding there be not any Precedent in the Case*, shall be added to the Order made yesterday in the Case of *Robert Roberts, Esq;* and his Wife and Son?

It

three Calamities, he made Election of the Plague. And why? that he might fall into the Hands of God, and not of Men. In like manner, Mr. Speaker, if one of the two Extremes, with which I am threatned, be, as it appears, unavoidable, let me fall into the Hands of God's Vicegerent the King: The World will never pardon me an unworthy Action; his Goodness, I am sure, would in time pardon a generous Fault. But when you have heard me out, Gentlemen, I am confident you will find, that I shall need neither the World's Pardon nor the King's, but only yours. In the first place, Mr. Speaker, I am bound to clear Sir Richard Temple, which I here do upon my Honour, that he never sent by me a Message to the King, that had in it the least tincture of an Undertaking of his; which I conceive could be the only Part that could give Offence to his Majesty, or be a Ground for the Complaint made against him.—In the next place, if the King, who, the Law says, can do no wrong, hath thought fit to affirm, that I brought him that undertaking Message from Sir Richard Temple, it must needs be true, and I do with all Submission avow whatever his Majesty is pleased to affirm of me; but, having discharg'd that Duty towards my Sovereign, I hope I may be allowed to lay the Fault home upon myself, and to tell you, that my Tongue, I know not by what Distemper, delivered that which, I protest to God, was never in my Thoughts; I was so far from thinking to deliver such a Message from Sir Richard Temple, that I did not think myself charg'd with any thing by way of Message. It is true, Mr. Speaker, that, being full of Indignation at ill Offices done him, I made a warm Address to his Majesty in Sir Richard Temple's behalf, wherein I expressed his Grief, that his Majesty should be offended with him, and having join'd thereunto some Reasonings of his to justify his Conduct, in relation to his Majesty's Service, very agreeable to my own Sentiments, I pursu'd his Expressions with such of my own, as (all Circumstances considered) the most unattentive Person, and the most bias'd with Passion against Sir Richard Temple, might have easily understood it to be no Undertaking of his, but only a warm Discourse, and confident Undertaking of my own.—Sir Richard Temple being thus clear'd, without the least contradiction to his Majesty, if to undertake for you, Gentlemen, be a Guilt, it is only I that stand guilty before you. But you are too noble, I am sure, and too just, to condemn me in your Judgments, before you have heard the Nature and Circumstances of my Undertaking; which, with your leave, I shall declare to the full, taking the Matter (as I must needs, to be rightly understood) from an higher Original. Mr. Speaker, having had the Honour heretofore of discharging, with Approbation, a Place of so high Trust, as that of Secretary of State to his Majesty's Father of blessed Memory, and to himself: And since my quitting that Place, being admitted so frequently

to

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It was resolved in the Affirmative.

Against which Vote the Lords following doth protest and dissent (having Liberty of the House so to do before the Question was put) for that he is not satisfied to give Directions how the Chancery should adjudge a Cause, the Merits whereof this House never heard at the Bar, and which, he conceives, is not legally before this House; for that the former Transactions and Proceedings which this House made therein, and all Debates, Votes, and Resolutions thereupon, are determined with a former Session of Parliament, and so totally shut out of Doors, as if it had never been entertained by this House; and for that the said Vote, seems to enlarge the

to the Happiness of his Princely Conversation, you cannot imagine, but that sometimes he vouchsafed to speak to me of Business, especially of Parliaments, where I have the Honour at present to be a Peer, and have heretofore been as much versed, as some of my Contemporaries, in the Proceedings of the Honourable House of Commons. I confess, that, before this last assembling, he did it more than once, and the Opinion I most constantly delivered concerning this House was, that never King was so happy in a House of Commons, as he was in you; a House composed of so many Gentlemen of Birth and Fortune, eminent in their Faithfulness to him, and such as could never be suspected of any sinister Designs, or of any other Dependence, but upon the Crown, and upon the Care of those that chose them, and such as in the last Sessions had manifested their Affections to him by such large Aids and Supplies; adding, that nothing could be more important to his Service, than to make and preserve you still popular with those that sent you. To which end I took the Liberty to tell him, that if the necessity of his Affairs, (of which I, having no part in his Council, was no good Judge) could admit of it, he ought not in prudence to let you give him any Money this Sitting, but rather to oblige you wholly to apply yourselves to the making of such Laws as might endear both him and you to the People; by which means, at another Meeting, he would be Master of the Hearts and Purse of his Subjects. But in case his Necessities should urge him to press you, before the rising, for a new Supply, that he ought, by all means, to let it be accompanied, if not preceded, by some eminent Acts for the Reformation of former Abuses. and for the securing his Subjects from the like for the future.—I persisted, Mr. Speaker, in pressing, upon all occasions, this Advice to his Majesty, till within some few Weeks after their meeting; when finding myself (I know not by what Misfortune) fallen under some Prejudice, I thought that a total forbearance from speaking to him of any Business, would be the best Way of my serving him. And I protest unto you, Gentlemen, with all Sincerity, that from that time, until that of his Majesty's expressing to me some displeasure against Sir Richard Temple, I never once opened my Lips to him of any public Affair whatsoever: It is true, Mr. Speaker, that a ground being given me to enter again with his Majesty, upon a Subject which my Heart was still full of, I laid hold on the occasion, and in pursuance of what I had said in behalf of Sir Richard Temple, told his Majesty, perhaps with more Freedom and Ferour than did become me, that I found his Courtiers gave him wrong Measures, both of the Temper of the House of Commons, and of the Means to attain

the Bounds of the Chancery, which is by this Vote directed to make a Decree, tho' there hath been no Precedent in the Case, especially where the Will of the Dead may be overthrown, Infants decreed out of a legal Estate, and Provision made by the Testator to pay honest Debts defeated and avoided.

Mobun.

I being unsatisfied in my Judgment concerning the Vote which passed this Day, for an Order to be directed from this House to the Lord Chancellor in the Case of *Mr. Roberts*, did demand Leave of the House to enter my Dissent; and accordingly do protest against that Vote for these Reasons following :

1st,

attain from them any new Supplies, whether by way of Present, Gift, or of such Establishments in his Revenues; as might indeed put him out of necessity; since there could be no reasonable Hopes of obtaining from them any such Assistance, but by a Concomitance, if not a Precedence of such Acts, as might be grateful and beneficial to his Subjects, and secure them, that what shall be given hereafter should be better managed for his Majesty's Service, than those vast Sums that had been formerly granted: That if his Majesty, in his Princely Wisdom, should think fit to drive on his Business upon solid Grounds, and not upon the false and self-interested Measures of some Courtiers, he had a House of Commons composed of Members so full of Affection to his Person, and Zeal for his Prosperity and Glory, that not only Sir Richard Temple, but the most unprejudic'd and wisest Men of the Kingdom, as well as myself, durst undertake for them. See here, Gentlemen, the bold undertaking that such a House of Commons would never let him want such present Supplies, as the true necessity of his Affairs should require, nor such an established Revenue, as is fit to support the Greatness and Honour of his Crown. If this was a Criminal Undertaking, you have, before you, Gentlemen, *Conscientem reum*; but whilst I am endeavouring to clear Sir Richard Temple, and to vindicate or arraign myself, according as you shall be pleased to understand it, by telling you what pass'd from me to his Majesty, I must not omit to give him the Honour due to him for the Kingly Reply he made to me upon this Occasion, which was, That he had a true Sense of the Merit of the House of Commons towards him; even far beyond what I had expressed, and this was the Reason why, relying so entirely as he did, upon the Affections of that whole Body, he was, and ever should be offended at any Proposition to carry on his Business there by officious Undertakings and Cabals, either of his Courtiers or others. An Expression fit to be written with the Rays of the Sun, that all the World may read it; an Expression which cannot chuse but inflame the Affections of all this noble Assembly that hear me, and carry you to make good these happy Impressions of you, which are so deeply stamp'd in his Royal Breast: Such as I should think it a Crime to doubt, but that all Suspicions being now vanish'd of his Majesty's owing the Supply desired, to any Acts or Contrivances of others, your own Zeal for his Service will, even in the proportion and timeliness of that, exceed the vain Proposals of all pick thank Undertakers. Mr. Speaker, I should have here put a Period to your Trouble of hearing me, did I not think I might incur the Imputation of much Weakness and Supineness in my own highest Concernments. if, valuing, as I do, above all Earthly Con-

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1st, I conceive this may be of dangerous Consequence, if, in this Conjunction of Time, it should occasion any Misunderstanding betwixt the two Houses; Union of both Houses conducing so much to the Safety of the King and Kingdom; for haply they may apprehend, as sometimes they have formerly done, that this House doth extend their Power of Judicature farther than ever hath formerly been; and therefore should think themselves interested, that if any Remedy, in this extraordinary Case, should be applied to Mr. Roberts, who is a Member of their own House, it ought to be by the legislative Power, and not by the judicial.

2dly,

Concernments, the Favour and the Esteem of my Country, of which you are the illustrious Representatives; and knowing what Industry has been used to blast me with you, I should not lay hold on this just occasion to remove from me some unjust Prejudices under which I have labour'd. And this, Mr. Speaker, I humbly beg leave to do in very few Words. I appeal, Gentlemen, to Numbers of you, that hear me, whether I have not been represented unto you for the Giver of Advice of a far different Tenor from what you have heard upon this Occasion; whether I have not been painted out unto you for an Inflamer of his Majesty against his Parliament; for an Enemy of the Church of England, and for a dangerous Driver on of the Papistical Interest. It is true, Mr. Speaker, I am a Catholic of the Church of Rome, but not of the Court of Rome; no Negotiator there of Cardinal's Caps for his Majesty's Subjects and Domesticks, a true Roman Catholic as to the other World, but a true Englishman as to this: Such a one, as had we a King inclined to that Profession (as on the contrary, we have one the most firm and constant to the Protestant Religion, that ever sat upon the Throne) I would tell him as freely as the D. of Sully, being a Protestant, told his Grandfather Henry IV. That if he meant to be a King he must be a constant Professor and Maintainer of the Religion established in his Dominions. Believe me, Gentlemen, Roman Catholic as I am, there is no Man amongst you all, more thoroughly perswaded than I am, that the true Pillars, that can uphold this Monarchy, must ever be the Maintenance of the Subjects just Rights and Liberties, and the careful Preservation of that State Ecclesiastical, whereof his Majesty is the supreme Governour; and I do clearly profess, that should the Pope himself invade that Ecclesiastical Right of his, I should as readily draw my Sword against him as against the late Usurper. Mr. Speaker, one Prejudice more I am under, which ought to have great Weight indeed with this Honourable House, if there were a real Ground for it; and that is, that the Earl of Bristol is one of those, who by the vast Grants that he hath got of the King, hath, in part, contributed to the Groans of the People, to find their King still in such necessity, after such unexampled Charges laid upon the Subjects for his Supplies. It is true, Mr. Speaker, that tho' I have neither Offices to keep, nor Offices to sell, his Majesty's Gifts to me have been great, in proportion to my Merit, which is none: For in serving and suffering for him with Faithfulness, I did but my Duty, which carries a Reward with itself, enough to raise a Comfort to me, from the very Ruin of my Fortune. It is also true, I have had the Satisfaction from his Majesty, that he never refus'd me any thing I ask'd him for myself. But I hope I shall make it appear also, that I have not only been a very modest Asker, but also a most careful one, to ask nothing considerable,

zdly. Whereas it hath been the Prudence and Care of all former Parliaments to set Limits and Bounds to the Jurisdiction of Chancery, now this Order of Directions (which implies a Command) opens a Gap to set up an arbitrary Power in the Chancery, which is hereby countenanced by the House of Lords, to act not according to the accustomed Rules or former Precedents of that Court, but according to his own Will; *sic volumus, sic jubemus, fiat pro ratione voluntas.*

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FIFTH

considerable, but what carried Advantage with it, as well to his Majesty's Interest as my own. I know well, Mr. Speaker, that, with so kind and so generous a Nature as our King's is, an ill Proportion of Bounty to Merit, and consequently the Largeness and Kindness of his Royal Heart that way, may have contributed much to the present Straights he is in. Happy is the Nation that hath nothing to fear for the Public, but from the Virtues of their Prince. It is your proper Work, Gentlemen, to reduce the Effects of them to a right Temperament, by your prudent Inspection; and may you begin it with all my Concernments, which I most readily lay at your Feet, humbly begging of you to appoint a Time, when I may display them all faithfully before you; in hopes that no Man, who hath been a Partaker of his Majesty's Bounty, will prove himself so unworthy of it, as not to follow the Example. Mr. Speaker, If having thus poured out my Soul before you, I have been so happy as to have begot in this Honourable House a right Persuasion of the Sincerity of my Heart, I expect and implore two gracious Effects of it. The first, that you will be pleased to grant me your Pardon, if the same Zeal for his Majesty's Service, and the Good of my Country, which made me presume (being no Counsellor) to press upon his Majesty my Opinion in Matters of such Importance, has transported me also, at this Time, in some sort, so as to become your Adviser. You have heard, Gentlemen, of the Dumb Man, whose Tongue was set free by the imminent Danger of his Father's Life; wonder not then, Gentlemen, that such a Lover of his King and Country as I am, having seen them, within these three Years in a Prospect of such Glory and Happiness, both at Home and Abroad, and finding to what a sad Condition Things are now reduced, (by what Means it is more proper for you to enquire, and may Heaven bless your Inspection;) wonder not, I say, Gentlemen, that a Man so affected as I am, should, by some Eruptions of Heart, let you see, that *Periculum Patriæ* ought to have a more powerful Effect upon a Man of public Soul, than *Periculum Patriæ*, and is capable, if I were a Mute, to make me become a Counsellor. The next is, Mr. Speaker, that if (as I said before, I have been so happy in what I express'd, as to have rais'd in you some more favourable Thoughts concerning me, you would vouchsafe me some Demonstration of it, whereby I may no more be made, by my Enemies, such a Bugbear as I am: As if a gracious Look of his Majesty upon me, were enough to ruin all his Affairs with you. I shall then continue the Way I am in with Comfort; but if I be so unfortunate, as that there still remains in this incomparable Representative of my Country, any Umbrage of Danger to it by my Access to his Majesty, as dear as the Conversation of the amiablest Prince that ever breath'd is to me, I shall banish myself for ever from his Sight, into the obscurest Part of his Dominions, rather than continue upon me the Jealousy of those on whom his Prosperity depends; or if this be not enough, I shall once more try my Fortune Abroad, where, I trust, this Sword, this Head, and this Heart shall make me live as heretofore, in spite of my Enemies, with Lustre to myself and some Honour to my Nation.

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FIFTH * SESSION of the Second Parliament.

WHICH began Nov. 24, 1664, affords nothing remarkable with respect to the House of Lords; that is not to be found in *Chand. Hist. Anno. 16. Car. II. 1664.* Page 81, 82, 83, 84, except the following Particulars relating to the Bill, which, during this Session, took Place, enacting that the Clergy, for the future, should be tax'd in common with the rest of the People in Parliament.

Account of the
Act for taxing
the Clergy in
Parliament.

It is to be observ'd, that by the original Constitution of the Nation, the Lords Spiritual and Prelates and Clergy were esteem'd one of the three Estates of the Realm, and therefore met in Convocation on the Civil Account of giving their own Money, and securing their own secular Rights and Liberties. This Right of taxing themselves, and of not being tax'd by Parliaments, had been inviolably observ'd before, as well as after the Reformation; only with this small Difference,

* During this Session in Feb. 22, 1664-5, War was declar'd with Holland 1664-5, concerning which Mr. Secretary Bennet (afterwards Lord Arlington) thus writes to Sir Richard Fenshaw, the English Ambassador at Madrid: 'The Parliament complains to the King, upon the Disquisition made by them into the Impediments to the common Trade of the Kingdom, that the Violences and Depredations of the Hollanders had much prejudic'd it. His Majesty answers them, that he wou'd enquire into it, and see Justice done. The Parliament thanks his Majesty for it, and saith, that, in the Prosecution thereof, they will stand by him with their Lives and Fortunes. This Compliment was accepted by his Majesty with that Kindness it deserved; but nothing further proceeded upon it, save the calling hither Sir George Downing, to be inform'd rightly of our Grievances. This, I say, was the only Thing done on our Side. Now see what they did on theirs: They presently Vote the fitting out thirty Sail of Ships, and work Sundays and Holidays to make them ready with all possible Expedition. Upon all this, may it not fairly be said, if I dispose myself to ask a Man Satisfaction, in the Form agreed of, for wrong done to me, and the Man betake himself to his Arms, draw his Sword, and cock his Pistol; may it not, I say, fairly be said, that the Man behaving himself so, is the Peace-breaker, tho' War follow upon it, and not I? Is not the Peace broken till I have the Sword or the Pistol-Shot in my Body? The Truth is, they are not only to blame in the Continuance of many Wrongs and Injuries done us heretofore, but in endeavouring thus violently to support them; in which they are encourag'd by the great Power and Vogue the East and West India Companies have over that Government, being the principal Members of it, and who care not how dear it cost the Public, to maintain the Wealth of their Trade; which the common People begin to see, and when they feel it a little more, will certainly mutiny against it.

Difference, that, after the Reformation, their Grants of Subsidy, for the more Certainty of collecting of them, were usually confirm'd by Acts of Parliament; and yet they gave Benevolences as formerly, to be levy'd and paid according to Rules and Constitutions of their own making. The Re-

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bellion in the late Reign, and the following Usurpations, were the first that broke in upon this peculiar Privilege: For the Ministers of those Times, either out of voluntary Compliance, Affectation of Popularity, or for want of Proxies to represent their Body, had their Benefices tax'd with the Laity, in the pretended Parliaments then held. But at the King's Restoration, this antient Right of the Church was recover'd with him; and thus the Matter continu'd for the first four Years. But now, as it appear'd, some of the Bishops and Clergy fell into Sentiments very different from those of their Predecessors. They began to think this customary Method of taxing themselves somewhat burthensome: They probably thought the Expectations of the Court might be set too high upon them this way; and that the Commons were often discontented, unless they over-charg'd themselves, and swell'd their Subsidies beyond a reasonable Proportion. We shall not examine how well these Jealousies were founded; but it is said, that the Apprehension of these and other Inconveniences, brought Archbishop *Sheldon*, and some other leading Prelates, into a Concert with Chancellor *Clarendon*, Treasurer *Sontbampton*, and some others of the Ministry. And now, at a Consultation, it was concluded, that the Clergy should silently wave the ancient Custom of taxing their own Body, and suffer themselves to be included in the Money-Bills prepared by the House of Commons: And to encourage their Assent to this Cession, two of their four Subsidies, they had granted last Year, were to be remitted; and over and above they had the Promise of a Clause for saving their ancient Rights.

This being comply'd with, the Security was accordingly given, and a very clear comprehensive Proviso inserted in the *Act for granting a Royal Aid unto the King's Majesty*, which ought not to be forgot. It stands thus; ' Provided always, and be it enacted by the Authority aforesaid, That all spiritual Promotions, and all Lands, Possessions or Revenues annex'd to, and all Goods and Chattels growing, or renew'd upon the same or elsewhere, appertaining to the Owners of the said spiritual Promotions, or any of them, which are or shall be charg'd, or made contributing to this Act towards the Payment aforesaid, during the Time therein appointed, (which was to be rais'd, levy'd, and paid in the Space of three Years) shall be absolutely freed and discharg'd from the two last of the four Subsidies granted by the Clergy to his

Majesty,

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Majesty, his Heirs and Successors, by an Act made in the former Session of this present Parliament, entitled *An Act for confirming of four Subsidies granted by the Clergy*, any Clause or Thing in the said Act to the contrary notwithstanding. — Provided always, That nothing herein contain'd shall be drawn into Example to the Prejudice of the ancient Rights belonging unto the Lords Spiritual and Temporal, or Clergy of this Realm, or unto either of the said Universities, or unto any Colleges, Schools, Alms-Houses, Hospitals, or Cinque-ports.' Notwithstanding this saving Proviso, which has expressly secured all Rights, the Clergy seem'd to have acquiesc'd for the future, and never after resum'd their great Claim; and from this Time, during the whole Reign, the Convocation met principally for Form Sake. The Parochial Clergy however gain'd one Privilege, which they had not before, which was their Voting for Members of the House of Commons: But whether they were Gainers or Losers in the whole, has been a Matter of some Dispute; yet we think a very little Consideration may determine whether the gaining of the latter Privilege be a full Compensation for the waving, if not the losing the former.



The SIXTH SESSION of the second Parliament,

WAS held at *Oxford*, (the Plague raging at *London*) *October* 9, 1665, and lasted but twenty-two Days; during which short Term both Lords and Commons acted conjunctively, and almost unanimously. See CHANDLER's *Hist. Anno 17. Car. II. 1665*, Page 85, 86, 87, 88, 89, 90, 91, 92; in which are contained the joint Transactions of both Houses, and to which we can find nothing material to add, but the Abstract of the famous *Five-Mile-Act*, which passed this Session, that follows: 'That no Non-conforming Teacher, under what Denomination soever, shall dwell, or come, unless upon the Road, within five Miles of any Corporation, or any other Place where they had been Ministers, or had preached after the Act of Oblivion, unless they first took the following Oath; *I A. B. do swear, that it is not lawful, upon any Pretence whatsoever, to take up Arms against the King; and that I do abhor the traiterous Position of taking Arms by his Authority against his Person, or against those that are commissioned by him, in pursuance of such Commissions; and that I will not at any time endeavour any Alteration of Government, either in Church or State.*' The Penalty was forty Pounds, and six Months Imprisonment, unless they took the said

faid Oath before their Commitment. The Reason of this Anno 18, Car. II. 1666. Severity given in the Act is, That these Teachers had settled themselves in divers Corporations, sometimes three or more in a Place, and took Opportunity to distil the poysonous Principles of Schism and Rebellion, to the great Danger of the Church and Kingdom.



SEVENTH SESSION of the *Second Parliament*,

BEGAN September 21, 1666, after a Recess of almost eleven Months, of which the principal Transactions, being either by Concert between the two Houses, or by way of Conference on certain Misunderstandings. (which arose on the Impeachment of Lord Mordaunt, the Poll-Bill, and the taking the public Accounts) are to be found in CHANDLER'S *Hist. Anno 17, Car. II. 1666 and 1667. Page 92, 93, 94, 95, 96, 97, 98, 99, 100.*

The only remarkable Particulars, peculiar to the House of Lords, were certain Disorders ascribed to the volatile, restless Duke of *Buckingham*, of which the beginning was a Challenge between him and the Earl of *Offory*, Son to the Duke of *Ormond*, and lately called by the King's Writ to the House of Peers. Upon Examination before their Lordship's, both confessed the sending and receiving the Challenge; and tho' the Earl made it appear, that it was upon an old Quarrel, and not from any Words spoken in the House, as the Duke pretended, the Earl was committed to the Tower, and the Duke to the Black Rod: But both were soon brought before the House and released. Not long after this there happened another Disturbance between the same Duke and the Marquis of *Dorchester*, for Room at a free Conference between the Lords and Commons in the *Painted Chamber*. Here the Duke, pressing very hard upon the Marquis, the latter told him, *He ought not to croud him so much, for he was as good a Man as he.* The Duke made some very smart Reply; to which the Marquis returned him the Lye: Upon which the Duke either gave him a Blow, or pulled him by the Perriwig; which occasioned such a Noise and Disturbance, that the House of Lords commanded them both to the Tower. Shortly after, the Duke having got his Liberty, without begging the King's Pardon, presumed to appear in his Majesty's Presence on *Christmas-Day*, for which he was immediately forbidden the Court.

Notice taken by the House of certain Quarrels.

The

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The Protests of this Session.

Die Lunæ 14^o Januarii, 1666.

Bill for import-
ing Irish Cattle.

The House resumed the further Consideration of the Report of the free Conference with the House of Commons touching the Word *Nusance* in the Bill against importing *Irish* Cattle.

And after Debate thereof, the Question being put, whether to agree with the House of Commons?

It was resolved in the Affirmative.

Memorandum, That the Question being ready to be put for agreeing with the House of Commons in the said Bill, and thereon divers of the Peers humbly moving that their Protestation might be entered, if the said Question should be carried in the Affirmative (as it was) we whose Names do ensue do accordingly enter our Dissents from the said Resolution, for many Reasons offered in Debates of the House, and at Conferences with the Commons, and particularly for these Reasons following :

Protest thereon. 1st, Because, as we humbly conceive, the Importation of *Irish* Cattle is no *Nusance*; and therefore we could not consent to call it what it was not.

2^{dly}, Because the Word *Nusance* was professedly designed by the House of Commons to restrain and limit a just, necessary, and antient Prerogative inherent in the Crown, for the Good and Safety of his Majesty's People, upon Accidents and Emergencies, which cannot be foreseen upon the making of new Laws.

3^{dly}, Because there appears no Precedent of any Remedy provided against *Nusances*, but by perpetual Laws and removing the *Nusances*; whereas this Bill is made but probationer, so that after a while the *Nusance* (if any) will revive.

Lastly, This most honourable House at a Conference did timely (after several Days Debate) acquaint the Commons, that they resolved not to admit the Word *Nusance*; and before the last Conference entered the same Day (as follows in the Journal of Parliament) that they had great Reason to insist, and commanded their Managers to declare so much to the Commons, when they let them know they did agree; which was done accordingly.

Cardigan, Anglesey, Berkeley, Burlington, J. Bridgewater, Audley, Conway, Llanwarr.

Die Mercurii 23^o Januari, 1666.

Bill to determine Differences touching Houses demolished by the Fire in London.

Hodie 3^a vice lecta est Billa, An Act for erecting of a Judicature for Determination of Differences touching Houses burned and demolished by Reason of the late Fire which happened in *London*.

The

The Question being put, whether this Bill, with the Alterations and Amendments now read, shall pass? Anno 21, Car. II. 1666.

It was resolved in the Affirmative.

Memorandum, Before the putting of the abovesaid Question, the Earl of *Dover* desired Leave to enter his Protestation, if the Question was carried in the Affirmative; which was granted, and accordingly entered his Dissent.

By Reason of the unlimited and unbounded Power given to the Judges in this Bill, without any Appeal, I enter my Dissent to this Bill. Protest thereon.
Dover.

Written in the Earl's own Hand.

Die Lunæ 4^o Februarii, 1666.

Upon Report from the Committee of Privileges of some Precedents concerning the Message from the House of Commons, touching the manner of Proceedings upon the Impeachment against the Lord Viscount *Mordaunt*. Manner of Proceeding on Viscount Mordaunt's Impeachment.

After a serious Consideration and Debate, the Question was put, whether to grant a Conference with the House of Commons upon the Desire of the late Message from the House of Commons concerning the manner of Proceedings upon the Impeachment of the Lord Viscount *Mordaunt*?

It was resolved in the Affirmative.

Memorandum, That these Lords following, before the putting of the abovesaid Question, desired Leave to enter their Dissents, if the Question was carried in the Affirmative; which was granted, and accordingly entered their Dissents as follows: Protest thereon.

The Reason why we have desired Leave of the Lords to enter our Dissents to the foregoing Votes, is, because we believe, the conferring with the House of Commons, upon a Matter only relating to the manner of Judicature, as we humbly conceive this to be, is a very great Derogation to the Privileges of this House; we do therefore enter our Dissents accordingly.

Dorchester, J. Bridgewater, Howard of Charlton.

Die Martis 5^o Februarii, 1666.

A Message was brought from the House of Commons by Sir *Robert Holt* and others, to desire a free Conference upon the Subject matter of the last Conference concerning the Impeachment against the Lord Viscount *Mordaunt*. A free Conference with the Commons refused.

The House taking this Message into serious Consideration, and after a long Debate,

The Question being put, whether to grant a free Conference to the House of Commons in this Matter?

It was resolved in the Negative.

The Lord following, before the putting of the abovesaid Question, desired Leave to enter his Dissent, if the Question

was

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was carried in the Negative; which was granted, and accordingly entered his Dissent.

The Denial of a Conference, which is the only way of keeping a good and right Understanding and Correspondency between the two Houses of Parliament, being very unfit; I enter my Dissent.

Dover. Written by the Earl himself.

Die Jovis 7^o Februarii, 1666.

Bill for rebuilding of London.

Hodie 3^a vice lecta est Billa, An Act for rebuilding the City of London.

The Question being put, whether this Bill with the Amendment and Proviso shall pass?

It was resolved in the Affirmative.

Memorandum, That before the putting of the aforesaid Question, the Lord following desired Leave to enter his Dissent, if the Question was carried in the Affirmative, and accordingly entered his Dissent.

For the exorbitant and unlimited Powers given in this Bill to the Lord Mayor and Aldermen of the City of London, to give away or dispose of the Property of Landlords, I do here enter my Dissent and Protestation against the Bill.

Dover.

Eodem Die.

Memorandum, That before the putting of the Question, whether the Lords should give a free Conference to the House of Commons upon the Subject matter of the last Conference concerning the Impeachment of the Lord Viscount Mordaunt? the Earl of Bridgewater desired Leave to enter his Dissent, if the Question was carried in the Affirmative; which being granted, he accordingly entered his Dissent by subscribing his Name, because the Conference granted was not a bare Conference, but a free Conference.

J. Bridgewater.

The King in his * Speech at the Prorogation, had, in a manner, taken upon himself to adjust the Difference between the two Houses, with regard to the taking the public Accounts; and, accordingly, during the Recess, did grant a Commission under the Great Seal of England, to John, Earl of Bridgewater, Oliver, Earl of Bolingbroke, Robert, Earl of Ailbury, Edward, Viscount Conway, John, Lord Lucas, and John, Lord Crew, Peers of this Realm, together with Sir William Lowther, Sir Thomas Meers, Sir Humphry Winch, Sir Thomas Littleton, Sir William Thompson, Sir Thomas Osborne, Sir Thomas Gower, Col. Samuel Sandys, Giles Strangeways, William Garway, Edward Boslawen, and John Jones, Esqs. being

* CHANDLER'S Hist. Anno. 19. Car. II. 1666-7. Page 100.

being Members of the House of Commons, with full Power to examine and state the said Accounts,' which was accordingly put in Execution. By which manner of Proceeding it appears, (says *Echard*) that the Enquiry into public Accounts was hitherto reserved to the King himself; but now by him graciously promised to the People, and pursued in a Method that seemed to signify, that the Lords were as much concerned in this Matter as the Commons.

But with submission to the Reverend Archdeacon, it may rather be gathered from hence, that this Commission was an Expedient of his Majesty's to take the Power of enquiring into the Application of the Revenue out of the Hands of both Houses, and annex it to the Prerogative; especially since we find it exercised, by the Commons, without a Rival, at this Day.

The Parliament, having continued sitting four Months and two Weeks, had been prorogued to *October 10*: But the *Dutch*, having made the memorable Attempt on *Chatham*, *June 10*, a Proposition was made in Council to assemble the Parliament with all possible Expedition. But on the other Side, the Chancellor, *Hyde*, finding the popular Discontents to rise high against him, used all Diligence to oppose that Motion; and conceiving an Army more useful to the Court at this Juncture of Affairs, took the Occasion to propose the raising of 12,000 Men. And tho' the major Part of the Council carried it for the assembling of the Parliament, and that a Proclamation should be immediately published for their meeting on the 25th of *July*, yet the Design of raising an Army was not laid aside.



An INTERMEDIATE SESSION

ACCORDINGLY ensued: But the House of Commons falling immediately on the new raised Army, a Message came to desire they would adjourn to *July 29*, when his Majesty, with a very short * Speech, prorogued them to *October 10*, as before.

[It will not be improper to take Notice here, that, in the Interval between this last Session and the next, the Treaty of *Breda* had taken place between *England* and the *States*; the Essence of which is as follows: ' That each Party should hold and possess, for the Time to come, in full Right of Sovereignty, Propriety and Possession, all such Countries, 1666. L Isles,

* CHANDLER'S Hist. Anno 19, Car. II. 1666-7. Page 101.

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Isles, Towns, Forts, Places and Colonies, as, whether during this War, or before, have taken and kept from the other by Force of Arms, and in what other manner soever, and that as they enjoyed and possessed them the 10th of May last.' The next Article imported, ' That all Ships, Goods and Moveables, which at any time had come into the Power of either Party, should remain in the present Possessors thereof, without any Compensation or Restitution for the same.' In like manner it was agreed by other Articles, ' That all Actions, Demands and Pretensions whatsoever for the same, should remain void, obliterated, and disannulled : And that under the foresaid Renunciation and Stipulation, all Letters of Reprisal, general or particular, ought to be comprehended and revoked, notwithstanding any Grant to the contrary : And likewise all Prisoners on both Sides, of what State or Quality soever, should be set at Liberty, without any Exception.' Some Articles related to a Denial of protecting of Rebels and Traitors, and others to Freedom of Trade, as well as Customs and Impositions. Besides which there were two that ought to be particularly remembered ; the one was, ' That all Ships and Vessels of the United Provinces, as well Men of War, as Merchant Ships and others, which should meet in the *Britannic* Seas any Ship of War belonging to the King of *Great Britain*, should strike the Flag, and lower the Sail, as it has formerly been practised.' The other was, ' That if the former Differences should be renewed, and turned into an open War, the Ships, Merchant-dise, and all moveable Effects of both Parties, which should be found in the Sea-Ports, and in the Dominions of the adverse Party, should be by no Means confiscated or damaged ; but there should be granted to the Subjects of both Parties the Term of six whole Months, during which Time they might transport the said Effects where they pleased.' Besides all these, in a separate Article, there are these Words, ' If any Person is found guilty of the abominable Murder committed upon the Person of the deceased King *Charles I.* of happy Memory, and is lawfully convicted and condemned, and they are found under the Dominion of the *States General*, so that the *States*, or any of their Officers, shall have Knowledge of it ; they shall be apprehended, put in Prison, and sent bound to *England*, &c.' This Article was highly exclaimed against by the Republican Party, and as much commended by the contrary Party, who looked upon it as very instrumental in the settling of Peace and Quiet in *England*.

Some Account
of the Disgrace
of the Earl of
Clarendon,

In this Interval, likewise, the Lord Chancellor *Clarendon's* Disgrace at Court was completed ; the Causes of which we find to be thus set forth by *Echard* : ' The Causes, and the

the Steps towards the Fall and Disgrace of the great *Clarendon* have been partly taken Notice of before, and how boldly he had been struck at by the Head of the Popish Party, the Earl of *Bristol*, and others: But here something more ought to be added. It has indeed been often admired, that such a good natured Prince, as King *Charles*, should not only consent to discard, but soon after to banish a Friend, who had been as honest and faithful to him as the best, and perhaps more useful and serviceable than any that he had ever employed; which surely could never have been brought to bear without numerous Envyers and Enemies. To shew how these were raised, we are to remember, that, during the Height of his Grandeur, which continued two Years without Rivalship, as well as the rest of his Ministry, he manifested an inflexible Steadiness to the Constitution of the Church of *England*, in equal Opposition to the Papists on one Side, and the rest of the Dissenters on the other, so that none of these could ever be reconciled to him, or his Proceedings. Yet he seemed forward in the Beginning to do so much towards the making a Coalition of all Parties, that the Cavaliers, and strict Churchmen, thought themselves too grossly neglected; and many of them, upon that Account, tho' unjustly, entertained insuperable Prejudices against him, and joined with the greatest of his Enemies. His Authority was once so great and prevailing, that even when it was much diminished, the unpopular Acts, Miscarriages, or Misfortunes, were generally charged upon him. Moreover, his personal Behaviour was attended with a sort of a Gravity and Haughtiness, that struck a very disagreeable Awe into a Court filled with comical and licentious Persons of both Sexes. He often took Liberty to give such Reproofs to these Persons of Wit and Gallantry, as were very unacceptable to them; and sometimes thought it his Duty to advise the King himself in such a manner, as they took Advantage of him, and as he passed in the Court, would often say to his Majesty, *There goes your School-Master!* The Chief of these was the Duke of *Buckingham*, who had a surprising Talent of Ridicule and Buffoonery; and that he might make way to his Ruin, he often did act and mimic this great Man in the Presence of the King, walking stately with a Pair of Bellows before him for the Purse, and Colonel *Titus* carrying a Fire-shovel on his Shoulder for the Mace; with which sort of Banter and Farce the King was too much delighted and captivated. These, with some more serious of the Popish Party, assisted by the Solicitations of the Ladies of Pleasure, made such daily Impressions upon the Mind of the King, that he at last gave way, and became pleased and willing to part both from his Person and Services.

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It is generally believ'd that the King had some particular and private Resentments against him, as his checking of those who were too forward in loading the Crown with Prerogative and Revenue, and such like Proceedings. And more particularly we are told, that he had besides countermin'd the King in a grand Design he had to be divorc'd from his Queen, under these Pretences, ' That she had been preingag'd to another Person ; or that she had made a Vow of Chastity before her Marriage, and that she was incapable of having Children.' The Person design'd to supply her Place was Mrs. *Stuart*, a beautiful young Lady, who was related to the King, and had some Office under the Queen. The Chancellor, to prevent this, sent for the Duke of *Richmond*, who was of the same Name, and seeming to be sorry that a Person of his Worth and his Relation to his Majesty shou'd receive no Marks of his Favour, advis'd him to marry the said Lady, as the most likely way to advance himself. The young Nobleman, liking the Person, unwarily follow'd the Advice, made immediate Application to her Ladyship, who was ignorant of the King's Intentions, and in a few Days married her. The King thus disappointed, and soon after hearing how the Match was brought about, banish'd the Duke with his new Dutchess from the Court, and reserved his Resentment against the Chancellor to a more convenient Opportunity. However it was, in a Letter to the Earl of *Sandwich* from the Lord *Arlington*, who never was a Friend to the Chancellor, we find these Words: ' His Majesty hath taken the Seals from the Lord Chancellor, and given them to my Lord *Bridgeman*, with a great deal of Satisfaction to the World, and to himself; and he hopes, *that, redifising some other important things before the Parliament,* he may expect they will deliver him out of the *Streights* he is so unhappily fallen into.' As to the private Reasons of the King's abandoning the Chancellor, his Majesty wrote an obliging Letter to the Duke of *Ormond*, then in *Ireland*, to give him Satisfaction in that Matter, as knowing him to be his intimate Friend. The Letter was never yet publish'd, nor would a Copy of it be granted ; but I have more than once been told the Substance of it by those who have read it ; and the principal Reason there given by the King was, *The Chancellor's insupportable Temper.*

One unpopular Act of his, not to be forgot, because it had a great Influence in a short Time ; and this was the building a very stately large House by the *Park* call'd *Clarendon-House*, which in a little Time obtain'd the Name of *Dunkirk-House*, as tho' it had been built by the Money taken for the Sale of that Place. This House was built in the Chancellor's,

lor's Absence in the Plague Year, principally at the Charge Anno 19, Car. of the Vintner's Company who, designing to monopolize his Favour, made it abundantly more large and magnificent than ever he intended or desired. And I have been assured by an unquestionable Hand, that when he came to see the Case of that House, he rather submitted than consented, and with a Sigh said, *This House will one Day be my Ruin.* II. 1667.



EIGHTH SESSION of the Second Parliament.

A GREABLE to the Time prefix'd at the Prorogation, began *October* 10, on which Occasion the King, and the new Lord Keeper *Bridgeman*, made each of them a Speech to both Houses, which are to be found, as likewise their Addrefs in Return, in *CHANDLER's Hist. Anno 19, Car. II. 1667. Page 101, 102, 103, 104.*

November 12. Mr. *Seymour*, by Order of the Commons, Lord *Clarendon* impeach'd the Earl of *Clarendon* at the Bar of the House of Peers, and desired he might be sequester'd from Parliament, and committed to safe Custody: Which, at a Conference, without any Debate, their Lordship's declined in the following Words, deliver'd by the Earl of *Oxford* in Writing.

The Lords have not committed the Earl of *Clarendon*, be- Message to the cause the Accusation is only of Treason in general, without Commons; charging any Thing in particular.

The 21st. The Lords desired another Conference, to which the Commons reply'd by Messengers of their own, giving an Account of their Proceedings, and intimating that they expected the Lords would have desir'd a free Conference.

The 23^d. The Lords desir'd a present Conference; at which a Vote of their Lordships was communicated, signifying, that the Commons Denial of the late Conference was contrary to the Course of parliamentary Proceedings: as likewise, their Lordships Reasons why it was not yet Time for a free Conference. And a Conference.

The 25th. The Commons having agreed to the Conference, the Committees of both Houses met, and the Lords declared that they had considered of the Precedents and Reasons formerly sent them by the Commons, but were not satisfied to secure the Earl of *Clarendon*, or to sequester him from Parliament until some special Treason be assigned. A Second.

The 28th. The Commons sent to the Lords to desire a free Conference upon the Matter of the last Conference; which the Lords granted; and both Committees being met, their

* See the Protefts of this Session.

Anno 19, Car. their Lordship again insisted, *That no Precedent can be against*
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To which the *Commons* answer'd.

If that can be made good, we shall press Precedents no more.

Lords. In the *Petition of Right*, 'tis provided that none shall be committed without special Cause, whereby the Party may answer according to the Law, whence it must be inferred that the Proceedings of the House of Commons are against Law; because a general Charge is against the *Petition of Right*.

Commons. The Case of the *Petition of Right*, rightly stated, will clear this, which was this: Some Persons were committed by no other Warrant but the King's special Command; they bring their Habeas Corpus to the King's Bench to know the Cause: This Cause was returned by the Judges, that they could not Bail a Man, when so committed, because they knew not the Cause, nor had any way to bring him to his Trial.

Then the *Petition of Right* provides that the Cause should be returned, whereby the Crime might appear, and that before and after the *Petition of Right* to this Day; if upon bringing a Habeas Corpus, it be returned that the Party is imprisoned for Treason, the Judges ought to remand, unless there be some special Cause to make them take Bail. So that the *Petition of Right* is against the Lords; for they say, a Man ought not to be imprisoned upon a general Charge, because 'tis against the *Petition of Right*: Whereas it is not against the *Petition of Right*, because the Judge may remand the Party, if there be not special Cause.

The *Lords* reply'd, That the Reason why the Judges remanded in that Case was, because the Party committed knew it was for Treason: Therefore they re-committed.

The *Commons* owned it was the Rule for the Judges to proceed by, but that was no Rule for Proceeding of Parliament; for as a Magistrate commits for Treason, and is supposed to be acquainted with it; so also is he with the Probability upon the Proof.

The *Lords* insist not now upon that, but specify Treason, and if the Course of Parliaments so much varied in such Cases, that was no concluding Proof, why they should have special Treason, And, for the other part,

That, upon the Return, there should be a Cause returned, that so the Party might answer; for when a Return is made, if the Cause be such as that the Party ought not to be imprisoned, the Judges free him, otherwise they leave him to come to his Trial.

And,

And, That as to the Precedent about the Earl of *Strafford*, Anno 16, Car. II. 1667.

The *Commons* reply'd, That as good Laws were made before, in, and after that time as any other; and if the Lords then might make such Laws, they could not see, why it should be a good time to administer to Persons the Laws already made.

Farther, to their Lordships Objection, that, in the time whence those Precedents were brought, there was a Face of War. They answered, That could not alter the Case, for the Law calls no Time a Time of War, whilst the Courts of Justice have Freedom, as they had when *Strafford*, *Finch*, *Canterbury* and *Ratcliff* were impeached; and it was strange that in the Parliament House there should be such a Consternation as to make their Proceedings invalid, when in other Courts there were none: Besides, in *Holland*, for many Years, there was a constant Scene of War, and could it be imagined, that there was not Justice done at that Time?

The *Lords* then pressed Precedents against the *Commons*: One 14 *Edw. II.* against the *Spencers*, where a great Man moved the King to commit one of them, and the King answer'd, *It could not be unless Cause was shew'd.*

The *Commons* reply'd, This was a Precedent like that, a Man was committed, because he was committed, for there was no Allegation of Treason.

Their *Lordships* second Precedent was, 38 *Hen. VIII.* against Lord *Stanbope*, the *Commons* moved the King to imprison him, and the King answer'd, *He would consider of it.* To that the *Commons* answer'd, That was no Denial, but a Thing usual with the King, and that Motion was to the King himself, which differs from this Case, for that was not alledg'd to be Treason: Besides, had it been Treason, it was against the King himself, and being an Offence against himself, he might (if he would) not imprison, because he may discharge a Man, or pardon him, though for Treason; but this Case is not so, because the Lords Justice is but minister'd to the King.

Their *Lordships* next Precedent was, 21 *Rich. II.* of *Arundell*, Archbishop of *Canterbury*, who as said was impeach'd of Treason, but not committed.

The *Commons* reply'd, The Case was this. There was a Commission issued out by *Rich. II.* That that Bishop and others should regulate what was amiss by evil Government, and the King was offended at the granting of it, and at *Northingham* sent for the Judges, and charged them, upon their Allegiance, to give true Answer to what Questions he should ask them, and the first Question was, *Whether that Commission so granted, was not invading his Prerogative?* They answered,

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swered, *Yes*. Then he ask'd, *How they ought to be punished, who procured it?* They answer'd, *As Traitors*. In the 21 the Bishop is charged by the Commons, and the Treason alledged is, That he had procured himself to be put into the Commission.

This being the Case, they urg'd, That if a Fact be call'd Treason, which afterwards appears to be none, there could be no Commitment; for if a Man calls another Man's coming into his Ground Treason, it falls of itself; therefore the Bishop was not committed.

The *Lords* added, That all those Articles were declared to be Treason, which before could not possibly be Treason to commit a Man, because the Nature of them must be Treason at Common-Law, and till these Treasons were declar'd, which was not till 21 *Edw. III.* they were not Treasons so as to imprison, or try any Man for them.

The *Commons* reply'd, All that Parliament was repealed, yet the Precedent was the more authentic. But I think that Lord (it was the Earl of *Bridgewater*) understood not what he said, at least I did not.

Then, about the Earl of *Strafford's* Precedent, the *Lords* said, That the very Impeachment was taken away by the Act of this Parliament, because the Impeachment is recited in it. Namely, Whereas the Earl of *Strafford* was impeached, &c. But every Clause in that Act of Attainder is taken away now, therefore the Impeachment; and you cannot make use of any Part of it.

The *Commons*. It's true, the Act of Attainder is taken away, but the very Act of Repeal doth recite that very Clause (whereas *Thomas* Earl of *Strafford* was impeached, &c.) and the Act cannot take away any thing which strengthens its own Supposition.

Then the *Lords* said, That they should be willing to comply with the Commons, but that they must be tender of their own judicial Proceedings.

Commons. Its true, they ought, and we supposed that the Lords might be jealous that we should intrench on their Power, but the Commons were so far from that, that they thought the judicial Power better lodged with them than in the Commons themselves could be; but we would open the Objection.

Their *Lordships* being the Judges in this Case might think, That for the Commons to take upon them to know what was Treason, would be an assuming to themselves what was only proper to the Lords, and that it was so now in charging the Earl of *Clarendon* generally.

Lords. The Objection is right.

Commons.

Commons. For our knowing Treason, we have many among us, who are Justices of Peace, trusted by Law to know and commit, (and if the Parliament be not sitting) even to commit a Peer himself for Treason; and the knowing what is Treason is so far from being improper to the House of Commons, that every Man in the Nation is bound to know it; for was it ever known, that Ignorance of the Law could ever excuse a Man from breaking the Law? Laws are made to be known by Subjects, especially those which concern the King; and unless they could find a Reason, why the Parliament embody'd should be more ignorant than particular Persons, the present Case must be clear, that the Jealousy of the Lords arose from a Fallacy thus, The Lords have judicial Power concerning Treason, and must of Necessity know it; the Commons have no judicial Power over it, therefore cannot know it; that is, because the Commons know what Law is; therefore they have judicial Power over Law.

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To this was not any thing reply'd.

The *Commons* farther said, That because they insisted upon to specify Treason, because, by committing upon a general, they might wrong the Party by committing him without Cause, and because they themselves were not informed in their Consciences what they did; they would do well to consider the many Inconveniencies which might follow, if the Charge of Treason was not general, but particular; and suppose it was special, their Lordships would know no more by it. For suppose a Man impeached for counterfeiting the Great Seal, which is express Treason, and he may be impeached for it, yet neither their Lordships nor the Party could have Advantage by that Specification, because there might be as many Questions what is counterfeiting the Great Seal, as what is Treason.

For Instance: One *Leak*, a Clerk in *Chancery*, intending to forge a Patent, puts together two Pieces of Parchment, and had fisted them, and put them together with Mouth-Glew, that they appear'd as one: Then a Grant was written upon the outmost, and a Seal affix'd, so that the great Seal is put to a true Thing; then he cuts off the Edges of the Parchment, so as to sever them, takes off the written One, and leaves the Seal on the Blank; then forgeth the Grant and makes use of it. This was question'd before the Judges, whether 'twas Treason or not, that is, whether counterfeiting the Great Seal or not? If it were, it was Treason, otherwise not. They resolv'd, it was not counterfeiting the Great Seal, and so not, but Misprision. And if it had been Treason, they resolv'd, that an Indictment had been enough to impeach him. Then suppose you have such an Impeach-

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ment before you for counterfeiting the Great Seal, you have special Treason, and imprison him; but when it is brought to Question, it appears not to be Treason, therefore he is wrongly imprisoned: And if your Lordships will examine what Knowledge you have of this Fact, you have no more than if it had been a general Treason.

Lords. There is a Case put there, as we are content to take a special Treason, but expect not the Proof as there it was.

Commons. If it were a Case put, so is your Lordship's Reply, for it was put *ex Concesso*, because you agreed that, if the Treason was special, the Party was to be committed, and this case was to shew their Lordships, they were in no better case then, than if the Treason were general.

But the Lords still pressing that the Impeachment itself of the Earl of *Strafford* was repeal'd in the Act about him.

The *Commons* reply'd. One part of the Act ought to be severed from the other, and that which is without Exception shall stand, tho' the other be taken away: For, suppose a Man prosecutes in a Court of Justice, for what he apprehends to be his Right, and yet the Cause goes against him, and he hath no effect of his Suit, afterward the Party (being an evil-minded Man, and thinking to reach his Ends) forgeth a Deed, or suborns Witnesses, and then begins a Suit in some other Court, and by those ways attains his Ends. Then a Bill comes before this Parliament to reverse the Judgment, reciting that such a Person hath been a Suborner of Witnesses, &c. so, and so, and therefore the Judgment is made void; certainly tho' this Person is named to be an evil-minded Person, yet this lays no Blemish on his first Proceedings. So that it appears by the Act, that the Proceedings against the Earl of *Strafford* were legal at first; if those afterwards, when the times became tumultuous, were not, it is not to be applied to what was well done and legal: They added, that they had pressed their Lordships with four * Precedents, and to three of them nothing was reply'd.

Lords. The Reason why my Lord *Finch* was committed, was because of his Flight.

Commons. He was fled before the Impeachment, but it was ordered, that he should be committed when found.

Then they added, That they must report to them, that, be the Treason what it would, they could not go to the Lords to have it punished without that Disadvantage, which the publishing the Treason beforehand would expose them to by making of Witnesses, escaping of Parties, and the like; then bad them consider, whether, if we should lay before them a Treason in every Thing circumstanced as Gun-Powder Treason, they would not imprison the Party till the whole Matter was opened.

Lords.

* See the Protests of this Session.

Lords. In Matters of State, other Courſes are to be taken : Anno 19, Car. II. 1667.
But they could ſee no Inconveniency in publiſhing that to the Lords, which muſt be publiſhed before 400 in the Houſe of Commons.

Commons. The Commons may proceed with what Secreſy or Openneſs they pleaſe ; and the Lords are not to take Notice of their Proceedings, whether open or ſecret.

Farther, That by a Matter of State muſt be underſtood, when a Parliament is not fitting, and we know not whither to reſort ; but when a Parliament is particularly called to prevent the Miſchiefs threatening the Kingdom, if that be not capable of remedying, no other Council could ; or we are not bound to reſort to that ; we are excluded from that to which we ought to reſort.

Lords. Then caution'd them concerning the Liberty of the Subject, to which they were now ſain to have Regard, bidding them conſider the Biſhop of *Canterbury's* long Imprifonment, without knowing the Cauſe, and they muſt ſatisfy their Conſciences, leſt they ſhould commit for Treason, and it prov'd not ſo.

Commons. It appears not that the Biſhop of *Canterbury* ſhould have lain leſs time, had the Impeachment been ſpecial ; and for the Liberty of the Subject, that knew not how a Subject ſhould have more Liberty by ſpecial Matter, than general ; ſpecial being but adding a formal Title, and the Subject goes to Priſon as well for the one as the other.

For their Conſciences. Suppose a Perſon accused generally, they are then to know whether it be Treason, and is not it as much that they commit an innocent Perſon ? So as if the Matter was ſpecial.

December 2. The Lords ſent down a Meſſage to the Commons by two Judges, to this effect, That upon the Report made to them of the laſt free Conference, they are not ſatisfied to commit or ſequeſter from Parliament the Earl of *Clarendon* without the particular Treason be mentioned or assigned ; who being withdrawn. Lords reſuſe to commit the Earl.

The 3d. Their Lordſhips acquainted the Commons by a Meſſage, That they had received a large Petition from the Earl of *Clarendon*, which intimates that he is withdrawn : Which Petition was next Day ſent down by the Duke of *Buckingham*, by the Stile of that ſcandalous and ſeditious Paper, which is as follows :

To the Right Honourable the LORDS Spiritual and Temporal, in Parliament aſſembled. The humble Petition and Addreſs of EDWARD Earl of Clarendon.

May it pleaſe your Lordſhips,

‘ I cannot expreſs the unſupportable Trouble and Grief of

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of Mind I sustain, under the Apprehension of being misrepresented to your Lordships, and when I hear how much of your Lordship's Time hath been spent upon the mention of me, as it is attended with more public Consequences, and of the Differences of Opinion which have already, or may probably arise between your Lordships and the Honourable House of Commons, whereby the great and weighty Affairs of the Kingdom may be obstructed in the Time of so general a Dissatisfaction.

‘ I am very unfortunate to find myself to suffer so much under two very disadvantageous Reflections, which are in no Degree applicable to me

‘ The 1st, From the Greatness of my Estate and Fortune, collected and made in so few Years, which if it be proportionable to what is reported, may very reasonably cause my Integrity to be suspected.

‘ The 2^d, That I have been the sole Manager, and chief Minister in all the Transactions of State since the King's Return into *England*, to *August* last, and therefore that all Miscarriages and Misfortunes ought to be imputed to me and my Councils.

‘ Concerning my Estate, your Lordships will not believe, that, after Malice and Envy have been so inquisitive and so sharp sighted, I will offer any thing to your Lordships, but what is exactly true; and I do assure your Lordships in the first place, that (except from the King's Bounty) I have never received nor taken one Penny but what was generally understood to be the just, lawful Perquisites of my Office, by the constant Practice of the best Times, which I did, in my own Judgment, conceive to be that of my Lord *Coventry*, and my Lord *Elsmere*; the Practice of which I constantly observed, altho' the Office in both their Times was lawfully worth double what it was to me, and I believe now is.

‘ That all the Courtesies and Favours which I have been able to obtain from the King for other Persons in Church or State, or in *Westminster-Hall*, have never been worth to me 5*l*. So that your Lordships may be confident I am as innocent from Corruption as from any disloyal Thought, which, after near thirty Years Service of the Crown, in some Difficulties and Distresses, I did never expect would be objected to me in my Age.

‘ And I assure your Lordships, and shall make it very manifest, that the several Sums of Money, and some Parcels of Land, which his Majesty hath bountifully bestowed upon me since his Return into *England*, are worth more than all I have amounts unto; so far I am from advancing my Estate by indirect Means. And tho' this Bounty of his hath very far exceeded my Merit, or my Expectation, yet some others have

have been as fortunate, at least in the same Bounty, who had *Anno 19, Cas.*
 as small Pretences to it, and have no great Reason to envy *II, 1667.*
 my Condition.

‘ Concerning the other Imputation of the Credit and Power of being Chief Minister, and so causing all to be done that I had a Mind to; I have no more to say, than that I had the good Fortune to serve a Master of a very great Judgment and Understanding, and be always joined with Persons of great Ability and Experience, without whose Advice and Concurrence never any thing hath been done.

‘ Before his Majesty’s coming into *England*, he was constantly attended by the then Marquis of *Ormond*, the late Lord *Culpeper*, and Mr. Secretary *Nicholas*, who were equally trusted with myself, and without whose joint Advice and Concurrence, when they were all present (as some of them always were) I never gave any Council. As soon as it pleased God to bring his Majesty into *England*, he established his Privy Council, and shortly out of them he chose a Number of Honourable Persons of great Reputation, (who for the most Part are still alive) as a Committee for foreign Affairs and Consideration of such Things as in the nature of them required much Secresy, and with these Persons he vouchsafed to join me: And I am confident this Committee never transacted any thing of Moment (his Majesty being always present) without presenting the same first to the Council-Board; and I must appeal to them concerning my Carriage, and whether we were not all of one Mind, in Matters of Importance.

‘ For more than two Years I never knew any Differences in the Councils, or that there were any Complaints in the Kingdom, which I wholly impute to his Majesty’s great Wisdom, and the entire Concurrence of his Majesty’s Counsellors, without the Vanity of assuming any thing to myself; and therefore I hope I shall not be singly charged with any thing that hath since fallen out amiss. But from the Time Mr. Secretary *Nicholas* was removed from his Place, there were great Alterations; and whosoever knew any thing of the Court and Councils, know well how much my Credit hath since that Time been diminished, tho’ his Majesty graciously vouchsafed still to hear my Advice in most of his Affairs: Nor hath there been, from that Time to this, above one or two Persons brought to the Council, or preferred to any considerable Office in the Court, who have been of my intimate Acquaintance, or suspected to have any Kindness for me; and most of them, most notoriously known to have been very long my Enemies, and of different Judgment and Principles from me, both in Church and State, and have taken all Opportunities to lessen my Credit with the
 King,

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King, and with all other Persons, by misrepresenting and misreporting all that I said or did, and persuading Men I have done them some Prejudice with his Majesty, or crossed them in some of their Pretensions: Tho' his Majesty's Goodness and Justice was such, that it made little Impression upon him.

' In my humble Opinion, the great Misfortunes of the Kingdom have proceeded from the War, to which it is notoriously known that I was always most averse, and may without Vanity say, I did not only foresee, but declare the Mischiefs we should run into, by entering into a War, before any Alliances made with neighbouring Princes. And, that it may not be imputed to his Majesty's want of Care, or the Negligence of his Counsellors, that no such Alliances were entered into, I must take the Boldness to say, his Majesty left nothing unattempted in order thereunto; and knowing very well that *France* resolved to begin a War upon *Spain*, as soon as his Catholic Majesty should depart this World, which being much sooner expected by them, they had in the two Winters before been at great Charges in providing plentiful Magazines of all Provisions upon the Frontiers, that they might be ready for the War, his Majesty used all possible means to prepare and dispose the *Spaniard* with that Apprehension, offering his Friendship to that degree, as might be for the Benefit and Security of both Crowns.

' But *Spain*, flattering itself that *France* would not break with them, at least, that they would not give them any Cause by administering Matter of Jealousy to them, never made any real Approach towards a Friendship with his Majesty, but, both by their Embassadors here, and to his Majesty's Ambassador at *Madrid*, always persisted, as Preliminaries, upon the giving up of *Dunkirk*, *Tangier*, and *Jamaica*.

' Tho' *France* had an Ambassador here, to whom a Project of a Treaty was offered, and the Lord *Hollis*, his Majesty's Ambassador at *Paris*, used all Endeavours to pursue and prosecute the said Treaty, yet it was quickly discerned, that the principal Design of *France* was to draw his Majesty into such a nearer Alliance as might advance their Design; without which, they had no Mind to enter into the Treaty proposed.

' And this was the State of Affairs when the War was entered into with the *Dutch*, from which Time, neither Crown much considered the making any Alliance with *England*.

' As I did from my Soul abhor the entering into this War, so I presumed never to give any Advice or Council for the way of managing it, but by opposing many Propositions, which seemed to the late Lord Treasurer and myself to be unreasonable,

unreasonable, as the Payment of the Seamen by Tickets, and many other Particulars which added to the Expence. Anno 19, Car. II. 1667.

My Enemies took all Occasions to inveigh against me, and making their Friendship with others out of the Council, of more licentious Principles, and who knew well enough how much I disliked and complained of the Liberty they took to themselves of reviling all Councils and Counsellors, and turning all Things, serious and sacred, into Ridicule; they took all ways imaginable to render me ungrateful to all sorts of Men, (whom I shall be compelled to name in my Defence) persuading those that miscarried in any of their Designs, that it was the Chancellor's doing; whereof, I never knew any thing. However, they could not withdraw the King's Favour from me, who was still pleased to use my Service with others, nor was there ever any thing done but with the joint Advice of at least the major Part of those who were consulted with. And as his Majesty commanded my Service in the late Treaties, so I never gave the least Advice in private, nor wrote one Letter to any one Person in either of those Negotiations, but upon the Advice of the Council, and also after it was read in Council, or at least by the King himself, and some other; and if I prepared any Instructions or Memorials, it was by the King's Command, and the Request of the Secretaries who desired my Assistance; nor was it any Wish of my own, that any Ambassador should give me any Account of the Transactions, but to the Secretaries, with whom I was always ready to advise; nor am I conscious to myself of ever having given Advice that hath proved mischievous or inconvenient to his Majesty; and I have been so far from being the sole Manager of Affairs, that I have not, in the whole last Year, been above twice with his Majesty in any Room alone, and very seldom in the two or three Years preceding.

And since the Parliament at *Oxford*, it hath been very visible, that my Credit hath been very little, and that very few Things have been hearken'd to, which have been proposed by me, but contradicted, *eo nomine*, because proposed by me.

I most humbly beseech your Lordships to remember the Office and Trust I had for seven Years, in which, in Discharge of my Duty, I was obliged to stop and obstruct many Pardons and other Grants, which would have been profitable to those who procured them, and many whereof, upon my Representation to his Majesty, were for ever stopt, which naturally have raised many Enemies to me: And my frequent concurring, upon the Desires of the late Lord *Treasurer*, (with whom I had the Honour to have a long and vast Friendship

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Friendship to his Death) in representing several Excesses and Exorbitances, the yearly Issue so far exceeding the Revenues, provoked many Persons concerned, of great Power and Credit, to do me all ill Offices they could. And yet I may faithfully say, that I never meddled with any Part of the Revenue or the Administration of it, but when I was desired by the late Lord Treasurer to give him my Assistance and Advice, having had the Honour formerly to serve the Crown as Chancellor of the *Exchequer*, which was for the most part in his Majesty's Presence. Nor have I ever been in the least Degree concern'd, in point of Profit, in letting any Part of his Majesty's Revenue; nor have ever treated or debated it, but in his Majesty's Presence, in which my Opinion concurred always, with the major Part of the Counsellors who were present.

‘All which, upon Examination, will be made manifest to your Lordships, how much soever my Integrity is blasted by the Malice of those who I am confident do not believe themselves. Nor have I in my Life, upon all the Treaties, or otherwise, received the Value of one Shilling from all the Kings or Princes in the World, (excepting the Books of the *Louvre* Print sent me by the Chancellor of *France*, by that King's Direction) but from my own Master, to whose entire Service, and the Good and Welfare of my Country, no Man's Heart was ever more devoted.

‘This being my present Condition, I do most humbly beseech your Lordships to entertain a favourable Opinion of me, and to believe me to be innocent from those foul Aspersions, until the contrary shall be proved; which I am sure can never be by any Man worthy to be believed: And since the Distempers of the Times, and the Difference between the two Houses in the present Debate, with the Power and Malice of my Enemies, who gave out that I should prevail with his Majesty to prorogue or dissolve this Parliament in Displeasure, and threaten to expose me to the Rage and Fury of the People, may make me to be look'd upon as the Cause which obstructs the King's Service, and Unity and Peace of the Kingdom.

‘I most humbly beseech your Lordships, that I may not forfeit your Lordships Favour and Protection, by withdrawing myself from so powerful a Persecution, in hope that I may be able, by such withdrawing, hereafter to appear and make my Defence, when his Majesty's Justice (to which I shall always submit) may not be obstructed, or controled, by the Power and Malice of those who have sworn my Destruction.’

CLARENDON.

A Bill

A Bill to banish the said Earl having passed the House, Anno 19. Car. their Lordships, *December* the 13th, sent it down to the Commons for their Concurrence. II. 1667.

And the same Day that House sent up the following Resolution to their Lordships for theirs. A Bill to banish the said Earl.

Resolved, That, this House taking notice of the Flight of the Earl of *Clarendon*, being under an Impeachment of High Treason by this House, the King's Majesty be humbly desired to issue out his Proclamation for summoning the said Earl to appear by a Day, and to apprehend him, in order to his Trial. The Lords Concurrence desired to a Vote of the Commons for apprehending him by Proclamation.

The 14th. The Lords, at a Conference, delivered two Reasons why they could not concur; viz.

1st, For that they conceive a Proclamation in the Way proposed, would be ineffectual, since it is *Subpana. Convictio- agere*ns, which cannot be till Particulars in order to Trial be declared. Reasons for not agreeing with it.

2d, That, what the House of Commons hath promised, and do promise at present, is intended in order to a judicial Way of proceeding; but since the Earl of *Clarendon's* Flight, their Lordships, upon Consideration of the whole State of Affairs, and of the Kingdom, have, upon Grounds of Prudence and Justice, thought fit, for securing of King and Kingdom, to proceed in a Legislative Way against the said Earl, and have, to that end, pass'd and sent down a Bill of Banishment and Incapacity against him, with which this Vote is inconsistent.

The Protests of this Session.

Die Mercurii 20^o Novembris, 1667.

The House took into Consideration the Report of the Conference with the House of Commons yesterday, concerning the Proceedings against the Earl of *Clarendon*; in order thereunto the Reasons of the House of Commons were read; and then these Precedents mentioned by the Commons were read:

1st. The Precedent of the Impeachment of Treason against the Earl of *Strafford*, the 11th of *Nov.* 1640.

2dy The Impeachment of Treason against *William Laud*, Archbishop of *Canterbury*, the 18th of *December*, 1640.

3dly. The Impeachment of Treason against the Lord *Finch*, Lord-Keeper, the 22d of *December*, 1640.

4thly. The Impeachment of Treason against Sir *George Radcliffe*, the 29th of *December*, 1640.

And, after a long Debate on the first Reason, and the aforesaid Precedents, the second, third, fourth, fifth and sixth Reasons were again read.

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And, after a serious Debate thereof, the Question being put, Whether, upon these Precedents and Reasons of the House of Commons, and the whole Debate thereupon, their Lordships are satisfy'd to comply with the Desires of the House of Commons for sequestering from this House, and committing the Earl of *Clarendon*, without any particular Treason assigned or specified ?

It was resolved in the Negative.

We whose Names are underwritten do, according to the ancient Right and Usage of all the Peers of the Realm assembled in Parliament, after due Leave demanded from the House in the usual Manner and Form, as the Journal-Book doth shew, enter and record our Protestation and particular Dissents as follow, and for these Reasons :

1st, That we are satisfied, in Agreement with so much of the Reasons of the House of Commons alledged to that Purpose, as upon a very long and solemn Debate in this House did concur with our Sense, that the Earl of *Clarendon* should be committed to Custody, without assigning of special Matter, until the particular Impeachment shall be exhibited against him by the Commons before the Lords in Parliament ; or else, how shall any great Officer of the Crown, and his Accomplices, be prevented from evading to be brought to a fair and speedy Trial ?

2^{dly}, We do conceive, that the four Precedents urged by the House of Commons for his Commitment as aforesaid, and to justify the Way of their Proceedings by general Impeachment only, are valid, and full to the Point of this Case ; and that the Precedent of *William de la Poole*, Duke of *Suffolk*, in the 28th of *Henry VI.* is no Precedent at all to the contrary, in regard that it was no Judgment nor Appeal in Parliament, but rather an Appeal to the King from the Judicature of the Parliament, whilst the Parliament was sitting, which is not according to the known Privilege and Customs of this House.

3^{dly}, The Earl of *Clarendon's* Power and Influence in the absolute Management of all the great Affairs of the Realm hath been so notorious, ever since his Majesty's happy Return into *England*, until the Great Seal was taken from him, that whilst he is at Liberty few or none of the Witnesses will, probably, dare to declare in Evidence all that they know against him ; for Defect whereof the Safety of the King's Person, and the Peace of the whole Kingdom, may be very much endanger'd.

4^{thly}, We conceive, that, in Cases of Treason and traitorous Practices, the House of Commons have an inherent Right in them to impeach any Peer of the Realm, or other Subject of *England*, without assigning of special Matter, because

cause Treason, either against the King's Person, or the Government established, which are Indivisible, is such a Specialty in itself alone, that it needs no further Specification as to the Matter of safe Custody ; nor can it be suspected, that so honourable a Body as the House of Commons would have accused a Peer of the Realm, of the Earl of Clarendon's Eminency and Condition, without very good Cause.

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Buckingham, Albemarle, Teynham, W. St. David's, T. Lucas, Cha. Gerrard, Berkshire, Paulett, Howard of Charlton, Pembroke and Montgomery, Rochester, Jo. Duresme, W. Sandys, Jo. Berkeley, Northampton, Kent, Carlisle, Dover, Norwich, Vaughan, Hen. Hereford, Byron, Bathe, Bristol, Arlington, Say and Seale, Powis.

Die Jovis 21^o Novembris, 1667.

A Message was sent to the House of Commons by Sir William Child and Sir John Cole, to desire a present Conference, in the Painted Chamber concerning the Matter of the last Conference touching the Earl of Clarendon.

The Messengers sent to the House of Commons return'd with this Answer : That the House of Commons are now in Debate of Matters of great Consequence, and will return an Answer presently by Messengers of their own.

A Message was brought from the House of Commons by Sir Robert Howard and others, to desire a Conference upon the last Message.

The Question being put, Whether to give the House of Commons a present Conference upon the last Message ?

It was resolved in the Affirmative.

Memoirandum. That before the putting of the above Question, these Lords following desired Leave to enter their Dissents, if it were carried in the Affirmative ; which being granted, they do accordingly enter their Dissents, by subscribing their Names to the Reasons following :

1st, Because the Lords having first desired a Conference, the Commons did not give it.

2^{dly}, Because there is no Precedent, that they can find, of any such Proceeding in Parliament before this.

3^{dly}, Because the House of Commons could not tell what was to be offer'd at the Conference desired by the Lords.

4^{thly}, Because, for ought they knew, the Lords at the Conference intended to agree with the Reasons, or give Reasons against them.

5^{thly}, Because there were no Precedents of free Conferences (nor can they, as we conceive, be) in Points relating to Judicature, which is entirely the Lords, whose Work is to

Anno 19, Car. consider the Reasons offered by the Commons, and give the
II. 1667. Rule.

Anglesey, Chandos, J. Bridgewater.

Die Jovis 12^o Decembris, 1667.

Hodie 3^a vice lecta est Billa, An Act for banishing and disenabling the Earl of Clarendon.

The Question being put, whether this Bill shall pass ?

It was resolved in the Affirmative.

I whose Name is underwritten do, according to the ancient Right and Usage of all the Peers of the Realm assembled in Parliament, after due Leave demanded from the House in the usual Manner and Form, as the Journal-Book doth shew, enter and record my Protestation and Dissent as follows :

1st, That without having ever been in Prison, or Imprisonment appointed, or any legal Charge brought, it seems unjust to punish the Earl of *Clarendon* for only withdrawing himself ; it not being at all certain to the House, that he is gone out of the Kingdom ; and if it were known to the Lords that he were fled beyond the Seas, tho' the Fault would be very great in a Person who hath lately been in such Trust, yet perpetual Exile, and being for ever disabled from bearing any Office, and the Penalties in the Bill, seem too severe a Censure.

2^{dly}, That it may, perhaps, give some Occasion for the Scandal to have it believed, that the House of Commons, and others, by standing so long upon Pretence of a Privilege to require Commitment before special Matter of Treason assigned, were in doubt, that no Proof of Treason could be made out against the Party accused ; and that they had therefore designed, through Terror, to make him fly and fear, lest he should yet return to be tried, in case they should bring in special Matter of Treason, as they ought to do, whensoever they accuse.

3^{dly}, That by this Bill, Power being taken from the King to pardon, it appeareth to be a great Intrenchment upon his Majesty's Royal Prerogative.

4^{thly}, That there can be no such Case, as hath been pretended, ever to cause a Necessity in the House of Commons not to acquaint the Lords with the Particulars openly made known to them, by which they were first satisfied to find Ground to accuse.

5^{thly}, That the House of Commons, so far judging any Article to be Treason, as to insist upon Commitment, without imparting the Particulars to the Lords, do seem therein to usurp that first Part of Judicature from the Lords, who are the highest Court of Justice in the Kingdom.

6^{thly},

6thly, That to require such Commitment seems to be contrary to the Petition of Right and *Magna Charta*, and the Rights not only of the Peers and great Persons of this Kingdom, but the Birth-right even of the meanest Subjects; and therefore those Proceedings not having been according to Law and the ancient Rules of Parliament, hath given Opportunity to the Earl of *Clarendon* to absent himself.

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7thly, The Commitment upon a general Impeachment hath been heretofore, and may be again, of most evil and dangerous Consequence; and, as is conceived, the Lords have yet no way for them so well to justify their fair and upright Proceedings in the Earl of *Clarendon's* Business, and the true-Regard that they have had herein to the King the Kingdom, as to delive this Bill of Banishment, and to expect a particular Accusation of the said Earl; and thereupon according to Law and Justice to appoint him a Day for Appearance, which if he observe not, without farther Process, Sentence might lawfully be pronounced against him.

Strafforde,

We having this Day given our Negatives to the passing of a Bill for banishing and disenabling the Earl of *Clarendon*; and having asked Leave of the House to enter our Dissents, to the end that it may appear to Posterity that we did not give our Consents to that Bill, we do now take Liberty to enter our Dissents, by subscribing our Names.

Berkeley of Berkeley, Halles, Ro. Lexington, T. Culpeper.

The said Bill of * Banishment passed the Commons, *December 18*, and received the Royal Assent the very next Day, with

* As to the Earl's Retreat and Departure, the Public received the first Advertisement of it in the following Words; 'Whitehall, December the 4th, Yesterday Morning became public the first Notice of the Earl of *Clarendon's* having withdrawn himself, but the Time when he retired is not certain. This Afternoon his Majesty was pleased to declare his Pleasure in Council, that the said Earl be put out of the Council, and remain henceforth divested of the Place of a Counsellor.' The last Person of Note who took Leave of this unfortunate Gentleman in England, was his intimate Acquaintance, Sir Stephen Fox, who had always been true and faithful to him: Being arrived at the melancholy Place, and embracing each other with all the Tenderness and the Meltings of parting Friends, the Earl spoke to this Effect: 'Dear Sir Stephen, give my humble Service, and my hearty Thanks to all my Friends you meet with; and let them know from me, that if they can but forgive the Folly of the great House, they shall never have Reason to be ashamed, or repent of whatever they have done for me. So taking his last Leave, he went over into France, where he continued an Exile to the Time of his Death, which happened at Roan in Normandy just seven Years after.

Such was the Fate and Fortune of this great and wise Statesman, who by his signal Abilities and indefatigable Industry had raised himself from the Station of a common Gentleman to the greatest Heights in the Kingdom,

Anno 21, Car. II. 1669. with several other Bills : After which both Houses adjourned, by the King's Request, till *February 6* : But did not meet for the Dispatch of Business till the 10th, when the King made a Speech to both Houses ; which is to be found in CHAND. *Hist. Anno. 19, Car. II. 1667. Page 114* : As is likewise in the following Pages, the Difference between the two Houses concerning the Offer of Mr. *Skinner* ; the only Thing of Consequence that seems to have come under the Cognizance of the Lords during this second Part of the Session ; which was adjourned, by the King's Command, to *August* the 11th.



NINTH SESSION of the Second Parliament,

HOWEVER, after several Adjournments, and at last a Prorogation, did not commence till *October* the 19th, 1669, at the Distance of one Year, five Months, and ten Days : At which Time both his Majesty, and the Lord Keeper *Bridgeman*, made a Speech to the two Houses, which are to be found in CHANDLER'S *Hist. Anno. 21, Car. II. 1669. Page 127, 128, 129* : But the Session itself produced nothing remarkable, except a Renewal

dom, so as to be placed above the Level of Subjects, becoming accidentally the Grandfather of two glorious Queens : And now, in the 60th Year of his Age, burthened with Infirmities, he was sent to pass the rest of his Life in perpetual Banishment, after he had spent the Vigour of it, and weathered innumerable Storms in the most difficult Services of two great Kings. As has been before hinted, it must be acknowledged, that in his Station he carried himself with somewhat a greater Reserve and Haughtiness than became him, or was useful to him, which alone must necessarily create him Enemies ; for tho' his other Virtues were above the rest of his kind, yet still nothing is so disagreeable to Human Nature as Neglect or Contempt. And of this a very prudent Check was once given to this great Man, according to the following Story we find in the anonymous Writer of his Life. Some Time after the Restoration, the Lord-Chancellor Clarendon, then in the Height of his Grandeur, going down to his Seat of Cornbury in Oxfordshire, all the Gentry round the COUNTRY flocked thither, to pay their Respects to his Lordship : Amongst the rest appeared old William Lenthall, the Speaker of the Long Parliament, who coming pretty late into the Hall, and observing the Company scornfully smiling at him all along as he passed up to the Chancellor, after had made his Compliment, with a handsome Address, he took Notice to his Lordship, that he had observed the Gentlemen to smile and jest to see him come to attend his Lordship ; then looking round, he added, ' My Lord, pray observe ; these very Gentlemen, here present, that now come to pay their Respects to your Lordship, have formerly done the very same to me.' A just Reprimand to the Gentlemen, and a wise Caution to the Chancellor to be on his Guard, lest it might come to his Turn to be as much despised, as he was then courted by them ; which indeed his hasty Fate afterwards brought upon him.

newal of the * Contest between the two Houses, which was Anno 21, Car. carried to such a Height, that his Majesty, *December the 11th*, II. 1669. thought proper, by Commission, to prorogue the Parliament, without passing one Act, till *February the 14th*.

The Protests of this Session.

Die Lunæ 22^o Novembris, 1669.

Hodie 3^a vice lecta est Billa, An Act for the limiting of certain Trials in Parliament and Privilege of Parliament, and for further ascertaining the Trials of Peers, and all other his Majesty's liege People.

The Question being put, whether this Bill shall pass?

It was resolved in the Affirmative.

Memorandum, That, before the putting the abovesaid Question, these Lords following desired Leave to enter their Dissents, by subscribing their Names and the Reasons following:

We humbly conceive, that if, by reason of the great Charter, and some Acts confirming it, we are not disabled to alien, as to the Justiciary and other Privileges of Parliament and Peerage, yet thereby they are indicated so fundamental, as we ought not to part therewith.

Bolingbroke, Dover, Stafford, Basil Denbigh, Will. Petre.

Die Jovis 25^o Novembris, 1669.

The House resumed the Debate which was on *Monday* last concerning the Business between *Bernard Grenville, Esq;* and *Jeremy Elwes, Esq;* The Cause of Grenville and Elwes voted to be properly before the House.

And after a serious Debate the Question being put, Whether this Clause be now properly before their Lordships for any farther Directions to the Court of Chancery?

It was resolved in the Affirmative.

Memorandum, That before the putting of the abovesaid Question, the Lords following desired Leave to enter their Dissents, by subscribing their Names and annexing their Reasons?

1st, Because by the Death of *Morley* the Suit in Chancery, wherein this House gave Direction, seems to us to be abated, and no longer depending there, till it shall be revived by the ordinary Course of that Court.

2^{dly}, Because that Court, if the Cause do yet depend, have made no final Decree upon the former Direction of the Lords House.

3^{dly}, We know of no Precedent, since the first Beginning of Parliament to this Day, nor were any shewed, that ever a Decree in Chancery, upon Appeal to this House, being reversed, and Directions given for a new Hearing of the Cause in

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in that Court; the Lords did resume the Cause, and give further Directions (before a final Decree) at the Solicitation of either of the Parties, where the Lord-Keeper or Chancellor found no Difficulty in Proceedings on the first Directions.

4^{thly}, To admit an Appeal or new Resort to this House by either Party, upon an interlocutory Decree, or decretal-Order, as this was, we conceive would endlessly multiply a Cause, be vexatious and chargeable to the Subject, and put this House to many Trials and Judgments in the same Cause, and take that Jurisdiction from the Chancery which is proper for them, *viz.* To mend their own Work upon Bills of Review or Reversal; if Error or Mistake shall be found in their Proceedings or Decrees.

5^{thly}, If this sort of Appeal be allowed to the Plaintiff, the like cannot be denied to the Defendant, and so *toties quoties*; for there can be no Limitation, if either Side apprehend Danger, and resort to their Lordships for Explanation of the former or further Directions, until their Lordships set down a Rule how often the Plaintiff or Defendant may resort back to them upon interlocutory Proceedings.

6^{thly}, Tho' their Lordships have Power upon Appeal to reverse any Decrees of that Cause, yet, we humbly conceive, this House will not put the particular Equity into the Conscience or Mouth of the Judge; but that the general Direction given in this Cause to proceed, as upon an equitable Mortgage, is as much as can be done (after the Relief already given, in laying aside the Release, and reversing the Decree given by the late Lord Chancellor) till after a final Decree either Party shall find Cause to appeal.

7^{thly}, The further Direction their Lordships are moved to give this Cause, is in a Point never stirred by the Plaintiff in his first Appeal, and may, for ought yet appears to their Lordships, never happen in the Case, or be made use of in the Decree of the Court of Chancery to be made; and therefore very improper for the Lords to interpose by Anticipation.

8^{thly}, This Way of frequent and importunate Application to the Lords in the same Cause, before it be ripe for Hearing or Judgment, we conceive to be a dangerous Precedent, and both derogatory and dilatory to the Proceedings of this High Court.

Cardigan, Halifax, J. Bridgewater, Anglesey, G. Nottingham, Fauconberg, Essex, T. Lucas.

TENTH

TENTH SESSION *of the Second Parliament*

WAS opened, according to the Time prefixed by the Prorogation, on *February* the 14th, with two Speeches by the King and the Lord-Keeper *Bridgeman* (which are both to be found in *CHANDLER's History, Anno 21, Car. II. 1669-70. p. 133, 134, 135.*) and produced little material besides an Accommodation of the Dispute between the two Houses, which was again revived in *Skinner's Affairs*, by an * Expedient from the Throne.—Some Time after which both Houses adjourned themselves at the King's Instance, till *October* the 24th, having sat little more than seven Weeks.

At the Time prefixed by the Adjournment, the Parliament met again, and the Lord Keeper, by his Majesty's Command, made a † Speech to both Houses, as at the Opening of a Session : But nothing material was done before *Christmas* ; when they had a Recess for a Month ; and being re-assembled, both Houses joined in a remarkable Address upon the Growth of Popery ; which, together with his Majesty's Answer and Proclamation thereupon, are to be found in *CHANDLER's History, Anno 23, Car. II. 1670 71. p. 141, 142, 143, 144, 145.*

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* *CHANDLER's Hist. 22 Car. II. pag. 135.*

† *CHANDLER's Hist. Anno 21 Car. II. 1670. p. 137, 138, 139, 140.* The Speech here referred to is wholly calculated to wheedle the Commons out of large Supplies ; but had so little of Matter of Fact for its Support, that even the Court was ashamed to publish it, as had been usual. No Wonder, when but the May before the following astonishing Incident had taken Place.

Colbert de Croissy, Ambassador from France to the Court of England, after having set forth to the King of England all the Reasons he had to be dissatisfied with the Dutch, after reminding him of the Medals in which they had attributed to themselves all the Honour of the Peace of Aix la Chapelle, and treated the Mediation of England with so much Contempt ; he at last gave him to know, That the Time was come of being revenged upon a Nation that had so little Respect for Kings, and he could never meet a more favourable Opportunity, since several German Princes had already entered into the Confederacy ; and the King of France was strong and powerful enough to be able to assure his Allies, that all due Satisfaction should be made to their Glory and Interest in the Sequel of this War. Upon this Representation, the King of England signed a private Treaty with France : And to give him further Assurances upon the Matter, Henrietta of England, Dutchess of Orleans, a Princess whose Wit and Capacity was equal to her Beauty, Sister to the King of England, and Sister-in-law to the King of France, cross'd over to England in 1670, and in the Name of the most Christian King made a

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Proposal

Anno 21, Car.
II. 1669-70.

The Commons having received Satisfaction on the Head of Religion, in Return sent up no less than four Money-Bills to the Lords; on the second reading of the first of which, *viz.* the Subsidy-Bill, the Lord *Lucas*, *February* the 22^d, made the following noble Speech, his Majesty being present.

My Lords,

The Speech of
Lord Lucas.

‘ When, by the Providence of Almighty God, this Nation recalled his Majesty to the Exercise of the Regal Power, it was the Hope of all good Men, that we should not only be restored to his Majesty’s royal Presence, and the divine Laws, but that we should be free from those heavy Burthens under which we had lain so long oppressed: We did believe that from thenceforth every Man should sit under his own Vine, enjoying the Fruits of Peace and Plenty; and that *Africa* herself, long since for the Sins of Men fled up to Heaven, should have been invited, by his Majesty’s most gracious and happy Reign, to return hither and dwell with us, and converse amongst Mortals again.

‘ But alas, we are all fallen very short of our Expectations, and our Burthens are so far from being made lighter to us, that they are heavier than ever they were; and as our Burthens are increased, so our Strength is also diminished, and we are less able to support them.

‘ * In the Times of the late usurping Powers, although great Taxes were exacted from us, we had then Means to pay them, we could sell our Lands, our Corn and Cattle, and there was Plenty of Money throughout the Nation; now there is nothing of this; Brick is required of us, and no Straw allowed to make it with. For that our Lands are thrown up, and Corn and Cattle are of little Value, is notorious to all the World.

‘ And

Proposal to her Royal Brother, of insuring him an ABSOLUTE AUTHORITY over his PARLIAMENT, and re-establishing the CATHOLIC RELIGION in the three Kingdoms of England, Scotland, and Ireland. But she said, That, in order to compass that End, there was a Necessity above all Things of lowering the Pride and Power of the Dutch, who placed their whole Study in sowing and fomenting Divisions among their Neighbours, and of reducing that State to the narrow Compass of the Province of Holland, of which the Prince of Orange should be Sovereign, or at least perpetual Stadtholder: That the Execution of this Project might be easily accomplished, by two powerful Princes strictly ally’d: That by this Scheme the King of England should have Zealand for a Retreat, in Case of Necessity, and the rest of the Netherlands should remain in the Hands of the King of France, if he could make himself Master of it.’ This Account is taken from the Memoirs of the Abbot Primei — Which were writ at the Instance and under the Patronage of Monsieur Colbert.

* Mr. Archdeacon Echard pretends to quote this Speech entire, and yet has left out these two Paragraphs.

‘ And it is as evident there is a Scarcity of Money ; for all that Money called *Breeches* (as fit for the Coin of the *Rump*) is wholly vanished ; the King’s Proclamation and the *Dutch* have swept it all away ; and of his now Majesty’s Coin, there appears but very little ; so that, in effect, we have none left for common Use, but a little, old, lean, coined Money of the three former Princes ; and what Supply is preparing for it, my Lords ? I hear of none, unless it be of † Copper Farthings ; and this is the Metal that is to vindicate, according to the Inscription on it, ‡ *the Dominion of the four Seas*.

‘ And yet, if amidst this Scarcity, the vast Sums given were all employed for the King and Kingdom, it would not so much trouble us ; but we cannot, without infinite Regret of Heart, see so great a Part of it pounded up in the Purses of other private Men ; and see them flourish in Estates, who, in the Time of his Majesty’s most happy Restoration, were worth very little or nothing ; and now the same Men purchase Lands, and keep their Coach and six Horses, their Pages and their Lacqueys ; while, in the mean time, those that have faithfully served the King are exposed to Penury and Want, and have scarce sufficient left to buy them Bread.

‘ And is this, my Lords, the Reward of our Services ? Have we for this borne the Heat of the Day, been imprisoned, sequestred, and ventured our Lives and our Families, our Estates and our Fortunes ? And must we, after all this, sacrifice so much of our poor Remainder to the Will of a few particular Men, and the Maintenance of their Vanities ?

‘ But suppose a’l the Money given were employed for the Use of his Majesty, and his Majesty were not cozened (as without doubt he is) is there no Bounds to, or Moderation in giving ? Will you say, that if we shall not plentifully supply his Majesty, he will not be able to defend us, or maintain the tripple League ? *And we shall thereby run the Hazard of being conquered.*

‘ ’Tis true, my Lords, that this may be a Reason for giving something ; but it is so far from being an Argument for giving so much, that it may be clearly made out to your Lordships, that it is the *direct and ready Way to be conquered by a Foreigner. And it may be the Policy of the French King, by these often Alarms of Armies and Fleets, to induce us to consume our Treasure in vain Preparations against him : And after*

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he

† Called the Lucas-Farthing to this Day.

‡ Quatuor Maria vindico.

Anno 21, Car. II. 1669-70. he has by this Means made us poor and weak enough, he may then come upon us and destroy us.'

It is not, my Lords, the giving of a great deal, but the well managing of the Money given, that must keep us safe from our Enemies ; your Lordships may be pleased to call to mind the Story of *Sampson* ; while he preserved his Hair, wherein his Strength lay, he was still *Victor over his Enemies* ; but when, by the Enticement of his *Dalilab*, his Hair was cut off, the *Philistines* came upon him, and overcame him : And so, my Lords, if we shall preserve and husband well our Treasure, wherein our Strength and the Sinews of War lie, and apply it to the right Uses, we shall still be superior to all our Enemies ; but if we shall vainly and imprudently mispend it, we shall become an easy Prey to them.

Besides, my Lords, what is this but *ne moriare mori*, and for Fear of being conquered by a Foreigner, put ourselves in a Condition almost as bad ; pardon me, my Lords, if I say in some respects a great deal worse ; for when we are under the Power of the Victor, we know we can fall no lower ; and the Certainties of our Miseries are some kind of Diminution of them : But in this wild Way we have no Certainty at all ; for if you give thus much To-day, you may give as much more To-morrow, and never leave giving till we have given all that ever we have away ; and the Anxiety of Mind which arises from this doubtful Estate, is an high Addition to our Afflictions.

All that I beg, my Lords, is, that we may be able to make some Estimate of ourselves : Would his Majesty be pleased to have a Quarter of our Estates ? for my Part, he shall have it : Would his Majesty be pleased to have Half ? for my Part, upon a good Occasion, he shall have it : But, I beseech your Lordships, then, that we may have some Assurance of the quiet Enjoyment of the Remainder, and know what we have to trust to.

My Lords, the Commons have here sent us up a Bill for giving his Majesty the twentieth Part of our Estates, at the full extended Value ; and I hear there are other Bills for Money also preparing ; which together, according to the best Computation, will amount to little less than three Millions of Money ; a prodigious Sum, and such, that if your Lordships shall not afford Relief, we must of necessity sink under the Weight of so heavy a Pressure.

My Lords, the Scriptures tell us, that *God Almighty sets Bounds unto the Ocean*, and says unto it, *Hither shall thy proud Waves come, and no farther*. And so I hope your Lordships, in imitation of the Divinity, will set some Bounds, some Limits, to this over-liberal Humour of the Com-

Commons, and say to them, *Hither shall your Profuseness* Anno 21, Car. II. 1669-70.
come, and no farther.

‘ My Lords, either your Lordships can deny, or moderate a Bill for Money coming from the Commons ; and if you cannot, all your great Estates are wholly at their Disposal, and your Lordships have nothing that you can properly call your own, and then let us pass this Bill without farther Examination ; but if you can deny or moderate (as without Question you can) your Lordships never had, nor possibly will have such a fair Occasion to shew it.

‘ My Lords, upon the whole Matter, I must humbly propose to your Lordships, that your Lordships will be pleased to reduce the Twelve-pence in the Pound to Eight-pence : And truly, my Lords, I have Reason to hope, that if your Lordships will truly reflect upon it, ye will find it do accordingly ; for in the first Place, it will be so far from being a Disservice to his Majesty, that your Lordships will do his Majesty in it the highest Service in the World ; for altho’ ye shall thereby take from his Majesty a Part of the Sum, you will give him a great deal more in the *Love and Hearts of his Subjects* ; and *there his Majesty must reign, if he will be great and glorious.*

‘ And next, your Lordships will acquire to yourselves eternal Honour ; ye shall thereby endear yourselves to the whole Nation, who for the future will look upon you as the Antients did upon their *Tutelar Gods* ; nor shall the *House of Commons*, but the *House of Peers*, be hereafter precious in their Sight.

‘ My Lords, give me Leave to mind your Lordships, that *noble Acts* are the Steps whereby the great Men of the World ascend to the Throne of Glory ; and can there be a nobler Act than to *release a distress’d Kingdom*, which lies languishing under so many hard Oppressions, and about to be so much more oppressed ?

‘ I detain your Lordships too long, and therefore shall say no more ; but must beg your Lordships Pardon, and submit all to your better Judgments.’

This Speech was printed shortly after, and was so distasteful to the then Ministry, that it was ordered to be burnt by the Hands of the common Hangman. However, it had such an Effect upon the House of Lords, that they immediately began to examine this Subsidy-Bill with more than usual Strictness. And conceiving that the *Distresses* allowed and appointed in that Bill, such as the breaking open of their Doors, were not agreeable to the antient Privileges of Peers, they made some Amendments by way of *Proviso* to the Bill, in order to assert their particular Privilege.

But

Anno 21, Car.
II. 1669-70.

But these the Commons refusing to agree to, it drew on a Conference between the two Houses, which is to be found in CHANDLER's *Hist. Anno. 23, Car. II. 1670-71. Page 145, 146*; as likewise in the following Pages the grand Controversy on the Bill for an additional Imposition on several foreign Commodities, which was left undecided by the King's putting an End to the * Session, April 22, 1671, by a Prorogation, without a Speech.

Protests of this Session.

Die Sabbati 17^a Decembris, 1670.

Pitt and others,
Petitioners a-
gainst Pelham
and others,
voted Relief.

Upon hearing Counsel at the Bar upon the Petition of *Robert Pitt* and others, and the Answer of *Robert Pelham* and others;

The Question being put, Whether the Petitioners ought to be relieved upon their Petition?

It was resolved in the Affirmative.

The Question being put, Whether the Lord-Keeper be directed from this House to lay aside the Dismission of the Bill in Chancery, and that the Heir at Law of *Shirley* the Testator be ordered by that Court to sell the Land, and distribute the Money according to the Direction of the Will?

It was resolved in the Affirmative.

Memorandum, That before the putting of the abovesaid Questions, I desired Leave to enter my Dissent and Protestation, if the Questions were carried in the Affirmative; which being granted, I do accordingly enter my Dissent and Protestation as followeth:

That the Will, as to the Appointment of the Sale of the Lands in Question, being void in Law, there is no Equity to compel the Heir to sell the Lands in Question to his own Discretion; and if it should be otherwise, it would be of a dangerous Consequence; for then the Lord-Keeper might, by the same Reason, make good all void Wills and other Assurances.

Abley.

Die Jovis 9^o Martii, 1670.

Privileges of
Parliament.

The House took into Consideration the Bill concerning Privileges of Parliament; and for the better Debate thereof, the House was adjourned into a Committee. The

‡ During this Session, the noble Earl of Clare made a notable Speech on the King's coming so frequently to the House of Peers, and sitting without his Robes, to influence Members; which was done sometimes with such Indecency, that his Majesty would not stick to sollicite for or against Bills as one Lord does another. This, Burnet says, he did by the Duke of Lauderdale's Advice: And adds, 'That he knew well on whom he could prevail: So that being in a Matter of Justice, desired to speak to the Earl of Essex and Lord Hollis, he said, 'They were stiff and fullen Men:' But being next desired to sollicite two others, he undertook it, saying, 'They are Men of no Conscience; so I will take the Government of their Conscience into my own Hands.'

The House being resumed, the Question was put, Whether *Anno 21, Ch.*
this Bill shall be committed? *II. 1669-70.*

And it was resolved in the Negative.

Dissentient. Because, I conceive, there is no Colour of Law to claim a Privilege of Freedom from Suits; and for many other Reasons.

Upon the same Grounds as the Earl of *Anglesey.*

Holles.

Die Mercurii 15^o Martii, 1670.

The Earl of *Dorset* reported, that the Committee for Petitions have considered the Petition of *John Cusack*, but cannot determine whether it came regularly before this House, because they know not whether any Appeal lies from the Court of Claims to the Chancery in *Ireland*; therefore humbly offers, as an Expedient, that this House would order some of the Judges in *Ireland* to certify whether an Appeal lies from the said Court of Claims to the Chancery in *Ireland*.

Upon this the said Petition of *John Cusack* was read.

And after Debate thereupon, the Question being put, Whether it shall be ordered that the Execution of the Judgment against the said *John Cusack* shall be suspended?

It was resolved in the Affirmative.

Dissentient' Anglesey :

Because the Defendants were never yet summoned nor heard, and are not Parties to the Judgment; and for many other Reasons, very obvious, as I humbly conceive.



[It will not be improper to take Notice here, that, in the Interval between this Session and the next a second War with *Holland* having been resolved upon, in Concert with the Court of *France*, (which had remitted 700,000*l.* to the King on that Account) the Exchequer was shut up, the *Dutch Smyrna* Fleet was attacked, a Grant of Liberty of Conscience, and an universal Toleration was set forth, and War with the *States* was declared, as follows: ' We have been always so zealous for the Quiet of Christendom, and so careful not to invade any other Kingdom or State, that we hope the World will do us the Justice to believe, that it is nothing but inevitable Necessity forceth us to the Resolution of taking up Arms.

War declared
with Holland.

' Immediately upon our Restoration to our Crowns, the first Work we undertook, was the establishing of Peace, and the settling a good Correspondence between us and our Neighbours; and in particular, our Care was to conclude
a strict

Anno 21, Car. II. 1669-70. a strict League with the *States-General* of the United Provinces, upon such equal Terms, as would certainly not have been broken, if any Obligations could have kept them within the Bounds of Friendship and Justice. This League was maintained inviolable on our Part : But in the Year 1664, we were stirred up by the Complaints of our People, and the unanimous Vote of both Houses in Parliament, finding it a vain Attempt to endeavour the Prosperity of our Kingdoms by peaceable ways at Home, while our Subjects were still exposed to the Injuries and Oppressions of the *States* Abroad. That whole Summer was spent in Negotiations and Endeavours on our Side, to bring them to reasonable Terms, which, notwithstanding all we could do, proved at length ineffectual ; for the more we pursued them with friendly Propositions, the more obstinately they kept off from agreeing with us. Upon this ensued the War in the Year 1665, and continued till the Year 1667 ; in all which Time our Victories and their Losses were memorable enough to put them in mind of being more faithful to their Leagues for the future. But instead of that, the Peace was no sooner made, but they returned to their usual Custom of breaking Articles, and supplanting our Trade. For Instance, the *States* were particularly engaged in an Article of the Treaty of *Brada*, to send Commissioners to us at *London*, about the Regulation of our Trade in the *East-Indies* ; but they were so far from doing it upon that Obligation, that when we sent over our Ambassador to put them in mind of it, he could not in three Years Time get from them any Satisfaction in the material Points, nor a Forbearance of the Wrongs which our Subjects received in those Parts.

‘ In the *West-Indies* they went a little farther, for by an Article in the same Treaty, we were to restore *Surinam* into their Hands ; and by Articles upon the Place confirmed by that Treaty, they were to give Liberty to all our Subjects in that Colony, to transport themselves and Estates into any other of our Plantations. In pursuance of this Agreement, we delivered up the Place, and yet they detained all our Men in it ; only Major *Banister* they sent away Prisoner, for but desiring to remove according to the Articles. Our Ambassador complaining of this Behaviour, after two Years Sollicitation, obtained an Order for the Performance of those Articles : But when we sent Commissioners, and two Ships to bring our Men away, the *Hollanders* (according to their former Practice in the Business of *Poleeroon* for above forty Years together) sent private Orders contrary to those they owned to us in public ; and so the only Effect of our Commissioner’s Journey thither, was to bring away some few of the poorest of our Subjects, and the Prayers and Cries of the most

most considerable and wealthiest of them, for Relief out of that Captivity. After this, we made our Complaints by our Letters in *August* last to the *States-General*, wherein we desired an Order to their Governors there, for the full Observance of those Articles; yet to this Time we could never receive one Word of Answer or Satisfaction. But it is no Wonder that they venture at these Outrages upon our Subjects in remote Parts, when they dare be so bold with our Royal Person, and the Honour of the Nation, so near us, as in their own Country, there being scarce a Town within their Territories that is not filled with abusive Pictures, and false, historical Medals and Pillars; some of which have been exposed to View by Command of the *States* themselves, and in the very Time when we were joined with them in united Councils for the support of the Triple-League, and the Peace of Christendom. This alone were Cause sufficient for our Displeasure, and the Resentment of all our Subjects. But we are urged to it by Considerations yet nearer to us, than what only relates to ourself; the Safety of our Trade, upon which the Wealth and Prosperity of our People depends, the Preservation of them Abroad from Violence and Oppression, and the *Hollanders* daring to affront us almost within our very Ports, are the Things which move our just Indignation against them.

“ The Right of the Flag is so antient, that it was one of the first Prerogatives of our Royal Predecessors, and ought to be the last from which this Kingdom should ever depart. It was never questioned, and it was expressly acknowledged in the Treaty of *Breda*; and yet this last Summer it was not only violated by their Commanders at Sea, and that Violation afterwards justified at the *Hague*, but it was also represented by them in most Courts of Christendom, as ridiculous for us to demand. An ungrateful Insolence! That they should contend with us about the Dominion of these Seas, who, even in the Reign of our Royal Father (in the Years 1635, 1636, and 1637) thought it an Obligation to be permitted to fish in them, by taking of Licences, and for a Tribute; and who owe their being now in a Condition of making this Dispute, to the Protection of our Ancestors, and the Valour and Blood of their Subjects. Notwithstanding all these Provocations, we patiently expected Satisfaction, not being willing to expose the Peace of Christendom for our particular Resentments, while they ceased not on their Parts to endeavour to provoke the most Christian King against us: Of which they thought themselves so secure, that for above these twelve Months their Ministers here have threatened us with it. At length, hearing nothing from them, we sent another Ambassador to them, who after
 1669-70. P several

Anno 21. Car.
 II. 1669-70.

Anno 25, Car.
II. 1672-3.

several pressing Memorials in our Name, could receive no Answer, till after he had declared his Revocation. Then they offered a Paper to this Effect, *That, in this Conjunction, they would condescend to strike to us, if we would assist them against the French; but upon Condition, that it should never be taken for a Precedent hereafter to their Prejudice.* Since the Return of our said Ambassador, they have sent an extraordinary one to us, who, in a most extraordinary manner, hath given us to understand, *That he can offer us no Satisfaction, till he hath sent back to his Masters.* Wherefore, despairing now of any good Effect of a further Treaty, we are compelled to take up Arms in Defence of the antient Prerogative of our Crowns, and the Glory and Safety of our Kingdoms; And we put our Trust in God, that he will give us his Assistance in this our just Undertaking, since we had no way left to defend our People from the Artifice of that Nation in Peace, but by the Valour of our Subjects in War.

The rest of the Declaration was only Form, and therefore unnecessary to be inserted; only the Conclusion must not be omitted, which was more strange and surprising to some than all the rest. It runs in these Words; ‘ And whereas we are engaged by a Treaty to support the Peace made at *Aix la-Chapelle*, we do finally declare, *That notwithstanding the Prosecution of this War, we will maintain the true Intent and Scope of the said Treaty, and that in all the Alliances which we have or shall make in the Progress of this War, we have and will take care to preserve the Ends thereof inviolable, unless provoked to the contrary.*’]



The ELEVENTH SESSION

WAS open'd * Feb. the 4th, 1672-3, and both the King and the Lord Chancellor *Sbafisbury* made a Speech upon the Occasion, which are to be found in CHANDLER's *Hist. Anno 25, Car. II. 1672-3, pag. 163, 164, 165, 166, 167, 168, 169.* Immediately after which, the

* They were to have met Octob. 30, but just before the Time, when Men's Minds began to be fill'd with Hopes or Fears, a Proclamation came out for a further Prorogation; of which the Earl of Arlington gives this following Account in a Letter to Sir Bernard Gascoyn, then Resident at Vienna: ‘ The last Week his Majesty resolv'd in Council on a further Prorogation of the Parliament to the 4th of February next, by which a great Measure of the Hollanders is broken, having fancied to themselves, that they should prevail with many of the Members of it, to make them clamorous upon his Majesty for a separate Treaty upon easy Terms, and with Exclusion

the Commons, having taken the King's † Declaration for Anno 25, Car.
 Liberty of Conscience (which he had signified a Resolution II. 1672-3.
 to maintain in his Speech) into Consideration, preferr'd an
 Address,

Exclusion to France ; so that they seeing this Trust broken, and finding no great Ease to their present Calamity from the Auxiliary Forces of Germany, we persuade ourselves we shall find them very reasonable in a short Time ; and in February his Majesty bringing into Parliament a determinate Resolution either of Peace or War, will much more easily obtain all the Ends there.

† The said Declaration was in Substance as follows : ' Our Care and Endeavours for the Preservation of the Rights and Interests of the Church, have been sufficiently manifested to the World, by the whole Course of our Government, since our happy Restoration, and by the many and frequent Ways of Coercion that we have us'd for reducing all erring or dissenting Persons, and for composing the unhappy Differences in Matters of Religion, which we found among our Subjects upon our Return : But it being evident by the sad Experience of twelve Years, that there is very little Fruit of all those forceable Courses, we think ourselves obliged to make use of that supreme Power in Ecclesiastical Matters, which is not only inherent in us, but hath been declared and recognized to be so by several Statutes and Acts of Parliament : And therefore we do now accordingly issue out this our Royal Declaration, as well for the quieting the Minds of our good Subjects in these Points, for inviting Strangers in this Conjunction to come and live under us, and for the better Encouragement of all to a cheerful following of their Trades and Callings, from whence we hope, by the Blessing of God, to have many good and happy Advantages to our Government ; as also for preventing for the future the Danger that might otherwise arise from private Meetings, and seditious Conventicles.

' And in the first Place, we declare our express Resolution, Meaning, and Intention to be, That the Church of England be preserv'd, and remain entire in its Doctrine, Discipline and Government, as now it stands establish'd by Law : And that this be taken to be, as it is, the Basis, Rule and Standard of the General and Public Worship of God, and that the Orthodox conformable Clergy do receive and enjoy the Revenues belonging thereunto ; and that no Person, tho' of different Opinion and Persuasion, shall be exempt from paying his Tythes, or other Dues whatsoever. And further, we declare, That no Person shall be capable of holding any Benefice, Living, or Ecclesiastical Dignity or Preferment of any kind in this Kingdom of England, who is not exactly conformable. We do in the next place declare our Will and Pleasure to be, That the Execution of all and all manner of Penal Laws in Matters Ecclesiastical, against whatsoever sort of Non-conformists, or Recusants, be immediately suspended, and they are hereby suspended. And all Judges of Assize and Goal-Delivery, Sheriffs, Justices of the Peace, Mayors, Bailiffs, and other Officers whatsoever, whether Ecclesiastical or Civil, are to take Notice of it, and pay due Obedience thereunto. And that there may be no Pretence for any of our Subjects to continue their illegal Meetings and Conventicles ; we do declare, That we shall from Time to Time allow a sufficient Number of Places, as shall be desired, in all Parts of this our Kingdom, for the Use of such as do not conform to the Church of England, to meet and assemble in, in order to their public Worship and Devotion ; which Places shall be open and free to all Persons. But to prevent such Disorders and Inconveniencies as may happen by this our Indulgence, it not duly regulated, and that they may be the better protected by the Civil Magistrate, our express Will and Pleasure is, That none of our Subjects do presume to meet

Anno 25, Car.
II. 1672-3.

* Address, or rather a Remonstrance against it ; to which the King reply'd, but not to the Commons Satisfaction ; who, thereupon rejoin'd, and had for Answer : *That indeed this was of Consequence, and he would take it into Consideration.*

By this, finding that the House would not rest satisfied with his first Answer, but expected a Disclaimer of his assumed Power to dispence the Laws in Matters of Religion ; he had repair'd to those Counsellors that advis'd him to attempt what was so distasteful to that House ; who, finding such great Opposition from those that must furnish them with Money to carry on the present War, and knowing, unless they made them some colourable Disclaimer, the Money-Bill would not pass ; advis'd his Majesty, as a fit Means to put an end to Controversy, to apply himself to the Lords, thereby seeming not to recede from his pretended Right, and yet willing to do something plausible, by making the House Parties and Judges of the Differences ; and thereupon, *March 1, 1672-3*, his Majesty made this following Speech to the House of Lords.

My Lords,

King's Speech
to the Lords.

“ **Y**OU know that, at the Opening of this Session, I spoke here to your Satisfaction ; it hath, notwithstanding, begotten a greater Disquiet in the House of Commons, than I could imagine. I have receiv'd an Address from them, which I looked not for, and made them an Answer which ought to have contented them ; but, on the contrary, they have made such a Reply, of such a Nature, that I cannot think fit to proceed any further in this Matter without your Advice.

“ I have commanded my Lord Chancellor to acquaint you with all the Transactions, wherein you will find me
“ and

meet in any Place, until such Place be allow'd, and the Teacher of that Congregation be approved by us.

“ And lest any should apprehend, that this Restriction should make our said Allowance and Approbation difficult to be obtain'd, We do further declare, That this our Indulgence, as to the Allowance of public Places of Worship, and Approbation of Teachers, shall extend to all Sorts of Non-conformists and Recusants, except the Recusants of the Roman Catholic Religion, to whom we shall in no ways allow public Places of Worship, but only indulge them their Share in the common Exemption from the executing the Penal Laws, and the Exercise of their Worship in their private Houses only. And if after this our Clemency and Indulgence, any of our Subjects shall presume to abuse this Liberty, and shall preach seditiously, or to the Derogation of the Doctrine, Discipline, or Government of the Established Church, or shall meet in Places not allowed by us ; We do hereby give them Warning, and declare, We will proceed against them with all imaginable Severity ; And we will let them see, We can be as severe to punish such Offenders, when so justly provoked, as we are indulgent to truly tender Consciences.”

* This Address, &c. are to be found in CHANDLER's Hist. Anno 25, Car. II. 1672-3, Page 169, 170, 171.

"and yourselves highly concern'd. I am sensible of what *Anno 25, Car.*
 "relates to myself; and I assure you, *my Lords*, I am not *II. 1672-3.*
 "less for your Privilege, and the Honour of this House."

By this Means the Lords (that meddled not before) became as it were interested in the Matter above-recited, and took the King's Application unto them for their Advice, as such an extraordinary Favour, that the same Day they shewed their Gratitude, by presenting him their humble Thanks, in these Words :

WE the Lords Spiritual and Temporal in Parliament *An Address of*
 assembled, do unanimously present your sacred Ma- *Thanks.*
 jesty our most humble Thanks, for having been pleased to
 communicate unto us, what hath passed between your Ma-
 jesty and the House of Commons; whereby your Majesty
 hath graciously offer'd the Means of shewing our Duty to
 your Majesty, and of asserting the antient, just Rights and
 Privileges of the House of Peers.

Whereunto the King return'd this Answer :

My Lords,

"Take this Address of yours very kindly, and will al- *His Majesty's*
 ways be affectionate to you; and I expect that you Answer
 "shall stand by me, as I will always by you."

Yet, notwithstanding these sweet Words, it was the next Day only resolved, That the King's Answer to the House of Commons, in referring the Points now controverted to a parliamentary Way by Bill, is good and gracious, that being a good and natural Course for Satisfaction therein.

The two Houses afterwards acted jointly in this arduous Point, as may be seen in *CHANDLER's Hist. Anno 25, Car. II. P. 173, 174*; which produced the following remarkable Incidents.

No sooner did the King begin to incline to the recalling his said Declaration, but the Lord *Shaftsbury* perceiv'd it: He lost no Time, the Resolution was not taken till eleven at Night, and the next Morning he appear'd in the House of Lords, at the Head of the most zealous Peers, against the Catholic Religion, the War with *Holland*, and the Alliance with *France*. The Lord *Clifford* that Day had undertaken to open the Debate of the Lords-House, for establishing a perpetual Fund, in order to advance and render Parliaments inconsiderable, and prepar'd a set Speech to that Purpose, which he read to the Lord Chancellor; who desired to hear it again; and, upon the second reading, he charged his Memory with the Substance of it, promising he would likewise come roundly into the Debate: This gave him an Opportunity,

Lord Clifford's
Speech.

Anno 25, Car.
II. 1672-3.

Lord Shaftsbury's Speech.

nity, he wish'd for, to be revenged of the Courtiers; and the Lord * *Clifford*; who, pursuant to the Determination of the † *Cabal*, began the Debate with the very Speech he had shew'd the Lord Chancellor; while his Majesty and his Royal Highness were then in the House to countenance the Design. The Country Lords, and those who were not in the Secret, stared at one another; the whole House, at the End of the Speech, meditating the Fate of *England*, remained in an awful Silence; when Chancellor *Shaftsbury* stood up, and answer'd his Speech from the Beginning to the End, shewing; that his Propositions were extravagant; that what he aim'd at would end in Confusion, and the Ruin of the Government; that it might perhaps send the Royal Family abroad again, to spend their Lives in Exile, without Hopes of a Return. All which he spoke with so much Spirit and Sharpness, that he confounded the Court-Councils.

While

* He had a particular Quarrel to Lord Clifford, which had its Foundation as follows: His Majesty being under pressing Necessities, in a private Meeting with his Ministers, declared, "If any one of them could invent " a Method how to raise about fifteen hundred thousand Pounds, without " a Parliament, he should have the White-Staff," namely, the Lord Treasurer's Place. Whereupon, the next Day, the intriguing Lord Ashley told Sir Thomas Clifford in confidence, 'That there was a Way to ' supply the King immediately with such a Sum; but it was hazardous to ' put it in Practice, and might draw a Train of ill Consequences along ' with it, by inflaming both the Parliament and People.' Sir Thomas was impatient to know the Secret, being bold and courageous, entirely in the French and Popish Interest, and pleas'd with any thing that might render the King uneasy with Parliaments. Therefore, to discover this Politician's Project, he ply'd his Lordship with Visits; and having one Night drunk him up to a proper Height, he insensibly led the Conversation into the King's great Wants; and the Lord Ashley being warm and unguarded, dropt the important Secret, which was the shutting up the Exchequer. Sir Thomas immediately took the Hint, left his Lordship as soon as he handsomely could, went directly to Whitehall, and without going to Bed, attending till the King rose, fell on his Knees, and demanded the White-Staff, according to Promise. His Majesty cry'd out, "Cod's Fish! I'll be " as good as my Word, if you can find the Money." Then Sir Thomas told him, 'If he would shut up the Exchequer, he might be sure of fifteen ' hundred thousand Pounds.' The King, who was as quick as any of his Ministers, easily fell in with the Project; and Sir Thomas Clifford, after it was found effectual, was made Lord-High-Treasurer and a Peer. The Lord Ashley was sensibly touch'd to be thus circumvented by his Pupil; but the Thing was done, and the Honour of the Invention appropriated; therefore to put the best Colour he cou'd on it, he said, 'That Clifford ' had plough'd with his Heifer;' and having been Chancellor of the Exchequer, he had the more Reason to expect the White-Staff himself. However, his Majesty, not to be forgetful of such an eminent Piece of Service, first made him Earl of Shaftsbury, and soon after Lord-Chancellor of England.

† A Junto, so call'd from the initial Letters of the Titles of those who compos'd it, viz. Lord Clifford, Earl of Arlington, Duke of Buckingham, Ashley Earl of Shaftsbury, and Duke of Lauderdale.

While he was speaking, the Duke of York, enraged at him, Anno 25, Car, whisper'd the King, *What a Rogue have you of a Lord Chancellor!* The King briskly reply'd, *Cod's Fish; what a Fool have you of a Lord-Treasurer?* II. 1672-3.

The Debate ended in a Ruffle, and the Lord Clifford narrowly escaped being sent to the Tower; and finding himself thus given up by the King, like his new Opponent, he declared, *He would serve no Prince in the World who had not Courage to avow his Principles, and support his Ministers in the Execution of his Demands.*

These last Passages were deliver'd to us on the Authority of a MS. left by Sir Joseph Tyley.

The Popish Party had render'd themselves formidable by their obtaining many Places of Honour, Profit, and Trust; but now a Bill was depending that would certainly throw them out of all, and secure all Places to those of the Church of England alone. This was called the *Test-Act*, which was particularly promoted, if not invented by the Earl of Shaftsbury, who resolved to strike directly at the Duke of York and his Friends; though the Act reached all Sorts of Dissenters. This Bill gave a great Alarm to many Persons, who used all Means to oppose it; but it soon passed the House of Commons, whose Apprehensions of Popery daily increased. When it came to be debated in the House of Peers in the Presence of the King himself, March 15, the famous Earl of Bristol, tho' a professed Roman-Catholic, unexpectedly stood up for the Bill in general, and spoke remarkably upon it; of which some Account shall be given to shew the Temper of the Times, as well as the Ingenuity of the Speaker.

Towards the Beginning of his Speech he declar'd himself a Catholic of the Church of Rome, not a Catholic of the Court of Rome; a Distinction he thought worthy of Memory and Reflection, whenever any severe Proceedings against those they call'd Papists should come in Question, since those of the Court of Rome did only deserve the Name. Therefore he insisted, that they should not speak here as Roman-Catholics, but as faithful Members of a Protestant Parliament.

Coming to the Bill itself, he proceeded thus: 'In the first place, *my Lords*, I beseech you to consider, That this Bill for securing of general Fears is brought up to you from the House of Commons, the great Representative of the People, and consequently the best Judges of the true Temper of the Nation: A House of Commons surpassing all that ever have been, in the illustrious Marks of their Duty, Loyalty and Affection to their Sovereign, both in his Person and Government: Such a House of Commons as his Majesty ought to consider, and cherish always, with such a kind Love as is due to

Lord Bristol's
Speech on the
Test-Act.

Anno 25, Car. II. 1672-3. to a Wife, never to be parted with unkindly, and as a Mistress to be turn'd off when our Turn is served by her. *My Lords*, this casual Mention of a Wife suggests to my Thoughts a Pursuance of the Comparison. I have observ'd in the Course of my Life, that Men, who have Wives somewhat Coquet, that is, a little subject to Gallantries, live easier Lives with them, and freer from troublesome Contentions, than those who have Wives of exact rigid Virtue; and the Reason is clear: For the more gamefome Ladies, being conscious of their Failings in that essential Part, are careful to disguise and repair them by kind and tender Compliances with their Husband's Humours in all other Things; whereas Wives, severely punctual and exact in the chief matrimonial Duty, expect, and even exact, far greater Compliances from their Husbands; and think themselves as it were privileged, by the Rigidity of their Virtue, to be sometimes troublesome in domestic Affairs, especially if there be any Jealousy in the Case. In like manner, *my Lords*, it is not to be much wonder'd at, if this incomparable House of Commons, transcending all that ever were in the grand Essentials of Duty, Loyalty, and Affection to their King, should, at some times, be a little troublesome to him in lesser Occurrences; especially when once Fears and Jealousies are on the Wing; *my Lords*, I shall not pretend to determine, whether there have been any just Grounds given by any violent Men, or by the unreasonable Ambition of any Roman-Catholics, for such Fears and Jealousies; it suffices to exact the Necessity of a timely Remedy, since they have indeed most violently seized, and distemper'd the Minds of the major Part of his Majesty's Protestant Subjects, which certainly no Man conversant in the World can deny. Now, *my Lords*, in popular Fears and Apprehensions, those usually prove most dangerous, that are raised upon Grounds not well understood; and may rightly be resembled to the fatal Effects of panic Fears in Armies, where I have seldom seen great Disorders arise from Intelligences brought in by Parties and Scouts, or by Advertisements to Generals, but from Alarms upon groundless and capricious Fears of Danger, taken up we know not either how, or why: This no Man of moderate Experience, in military Affairs, but hath found the dangerous Effects of one Time or other: In giving a Stop to which Mischiefs, the Skill of great Commanders is best seen. In like Manner, *my Lords*, this great and judicious Assembly of the House of Commons, rightly sensible of the dangerous Effects which so general a Disturbance of Men's Minds in the Concernments of Religion (how groundless soever) might produce, have applied their Care to obviate them by this Bill: A Bill, in my Opinion, as full of Moderation towards Catholic, as of Prudence and Security

Security towards the Religion of the State. In this Bill, *my* ^{Annō 25. Car.} *Lords*, notwithstanding all the Alarms of the Increase of Popery and Designs of Papists, here is no mention of barring them from a private and modest Exercise of their Religion; no banishing them to such a Distance from Court, no putting in Execution of Penal Laws in force against them; all their Precautions are reduced to this one Intent, natural to all Societies of Men, of hindering a lesser, opposite Party from growing too strong for the greater and more considerable one: And in this just way of Prevention, is not the Moderation of the House of Commons to be admir'd, that they have restrain'd it to this sole Point, of debarring their Adversaries from Offices, and Places, from Accession of Wealth by Favour of the Sovereign? And, after all, *my Lords*, how few do these sharp Trials, and Tests of this Act regard? Only a few such Roman Catholics as wou'd fain hold Offices and Places at the Price of Hypocrisy, and Dissimulation of their true Sentiments in Religion. *My Lords*, however the Sentiments of a Catholic of the Church of *Rome* (I still say not of the Court of *Rome*) may oblige me, upon Scruple of Conscience, in some Particulars of this Bill, to give my Negative to it, when it comes to passing; yet, as a Member of the Protestant Parliament, my Advice prudentially cannot but go along with the main Scope of it, the present Circumstances of Time, and Affairs consider'd, and the Necessity of composing the disturbed Minds of the People.'

On the 29th of *March*, before the Bill in favour of the Protestant Dissenters, and some others, could be finish'd, the King came to the House of Peers, and besides the Money-Bill, passed the Test Act, and several other public Acts; after which the Parliament was adjourn'd to the 20th of *October*.

It may here be observ'd, that by the Test-Act it was provided, 'That all Persons bearing any Office, or Place of Trust, or Profit, should take the Oaths of Supremacy and Allegiance in public and open Court, and should also receive the Sacrament of the Lord's-Supper, according to the Usage of the Church of *England*, in some Parish-Church, on some Lord's-Day immediately after Divine Service and Sermon, and deliver a Certificate of having so receiv'd the Sacrament, under the Hands of the respective Minister and Church-Wardens, prov'd by two credible Witnesses upon Oath, and put upon Record in Court: And that all Persons taking the said Oaths of Supremacy and Allegiance, should likewise make and subscribe this following Declaration; *I A. B. do declare, that I do believe there is not any Transubstantiation in the Sacrament of the Lord's-Supper, at, or after the Consecration thereof, by*

An Account of
the Test-Act.

Q

and

1672-3.

Anno 25, Car.
II. 1672-3.

any Person whatsoever. This Act, and Test therein prescribed (says *Ecclard*) has been generally accounted a great Bulwark to the establish'd Church of *England*. It was principally, if not solely, levell'd at the Roman-Catholics, in order to preclude them from all Place of Note and Trust, yet it did as effectually reach all strict Dissenters from the said Church. However, the former soonest felt the Effects of it; and not only many Popish Officers quitted their Trusts, but the Duke of *York* himself, who was High-Admiral of *England*, and the Lord Treasurer *Clifford*, both laid down their Places. The latter is said to be so very much disgusted at the King's passing this Bill, and some other Condescensions, that he retir'd, and died in Privacy and Discontent in his own Country of *Devonshire*. Of this noble Lord, Sir *Joseph Fyler* tells the following remarkable Story: 'While he had the Staff, it happen'd, that the King, the Duke of *York*, and himself, were shut up in a Room in Consultation, when Sir *William Bucknal*, a Commissioner of the Excise, came to speak with the King, to whom he had free Access, as frequently-accommodating his Majesty with Money. In Presumption of his usual Liberty, he went directly to the Room where he understood the King was, and hearing Discourse, had the Curiosity to listen close at the Door, to which he was excited by the King's speaking with some Earnestness; but he could only hear broken and imperfect Expressions. The Duke spoke so low he could not understand what he said, but *Clifford* spoke loud, as in public, and very audibly answer'd the King in these Words, *Sir, if you are driven off upon Fears, you will never be safe; the Work will do, if you declare yourself with Resolution; there are enough to stand by you.* The King reply'd, *This Name of Popery will never be swallow'd by the People:* And upon saying this, he started from his Seat, crying, *Some Body is at the Door!* Upon which *Clifford* ran hastily to it, and without speaking a Word, fell furiously upon Sir *William Bucknal*, dragging him to a Pair of Stairs, from whence he kick'd him down; and soon after Sir *William* met with his Death, which was not improbably thought to have proceeded from that Misfortune.

[In the Interval between the Sessions we find the two following Speeches of the Lord Chancellor *Shaftsbury*; the first to Mr. Serjeant *Thurland*, on his being made a Baron of the Exchequer; and the second to Sir *Thomas Osborne*, just created Lord Viscount *Dunblain*, and honoured with the Treasurer's Staff, on their taking the Oaths before him, to qualify them for their respective Offices.]

To Mr. Baron Thurland,

Anno 25, Car.
II. 1672-3.

' In the first Place you are to maintain the King's Prerogative ; and let the King's Prerogative and the Law be two Things with you ; for the King's Prerogative is Law, and the principal Part of the Law ; and therefore in maintaining that, you maintain the Law. But, let me recommend to you, so to manage the King's Justice and the Revenues, as the King may have most Profit, and the Subject least Vexation. Raking for old Debts, the Number of Informations, Projects upon Concealments, I could not find, in the eleven Years Experience I have in this Court, ever to advantage the Crown : But such Proceedings have, for the most Part, deliver'd up the King's good Subjects into the Hands of the worst of Men.'

Two Speeches of
Ld. Shaftsbury.

To the Lord Treasurer,

' Kings are as Gods, and bestow Honour, Riches and Power where they please ; but in this they are as Men, that they can only chuse, not make a Person adequate to their Employment : For if their Choice be merely Favour, not Fitness, their Omnipotency is quickly seen through. There is no more to be asked of you in this Condition, but that you know your own Interest, and that will secure you to the King's and the Nation's. I repeat them thus together, because none but Mountebanks in State Matters can think of them afunder. And let me say to your Lordships, that however happy you have been in arriving to this high Station, yet *Parta tueri non minor est Virtus*. Many great Men have proved unfortunate, in not observing that the Address and Means to attain great Things are oftentimes very different from those that are necessary to maintain and establish a sure and long Possession of them.' The new Treasurer thanked the Chancellor in public ; but the next Day, when he had considered the Terms in the Speech, it is said that he sent to revoke his former Thanks.

Of this Preferment of Sir Thomas Osborne, Sir John Reresby gives the following Account.

' Now it was that my Neighbour Sir Thomas Osborne rose to the great Office of High Treasurer of England, my Lord Clifford resigning his Staff, and confessing himself a Papist. The Duke of Buckingham was chiefly instrumental in bringing this about for Sir Thomas, by a Bargain he made between Lord Clifford and him, namely, that Sir Thomas should officiate, and give him Half the Salary.

The TWELFTH SESSION of the second Parliament

BEGAN *October the 20th*; but the House of Commons displeasing the Court, by addressing against the Duke of York's second Marriage with the Princess of Modena, his Majesty prorogu'd it to the *27th*, when it was again * opened: But the ill Humour of the Commons increasing on Account of Grievances, it was † clofed again in nine Days; during which Time, we do not find that the Lords did any thing material, but seem'd rather to attend the Motions of the Commons.

[During the Recess, which lasted but two Months and three Days, the King not only changed his Ministry, but, to ingratiate himself with his Parliament and People, forbid the Papists, or reputed Papists, from coming into his Presence; and published certain Papers, which had passed between the States and him, with respect to the *Dutch War*.]

* The Speeches made on that Occasion by the King and the Lord Chancellor Shaftsbury, are to be found in CHANDLER's Hist. Anno 25 Car. II, 1671, pag. 174, 180, 181, 182.

† Soon after the Prorogation, the Earl of Shaftsbury was dismissed in the following remarkable Manner. The Earl was sent for on Sunday Morning to Court, as was also Sir Heneage Finch, Attorney General, to whom the Seals were promised. As soon as the Earl came, he retired with the King into the Closet, while the prevailing Party waited in Triumph to see him return without the Purse. His Lordship being alone with the King, said, 'Sir, I know you intend to give the Seals to the Attorney-General; but I am sure your Majesty never designed to disappoint me with Contempt.' The King, who could not do an ill-natur'd Thing, reply'd, "Cod's-fish, my Lord, I will not do it with any Circumstance as may look like an Affront." 'Then Sir, said the Earl, 'I desire your Majesty will permit me to carry the Seals before you to Chapel, and send for them afterwards from my own House.' To which his Majesty readily complied; and the Earl entertained the King with News, and other diverting Stories, till the very Minute he was to go to Chapel, purposely to amuse the Courtiers and his Successor, who he believed was upon the Rack for fear he should prevail upon the King to change his Mind. The King and the still Chancellor came out of the Closet talking together and smiling, and went together to Chapel, which extremely surpriz'd them all, who could have no Opportunity to inform themselves what was to be expected; and some ran immediately to tell the Duke of York all their Measures were broken, and the Attorney-General was said to be inconsolable. After Sermon the Earl went home with the Seals, and that Evening the King gave them to the Attorney-General, a Man of great Parts and Abilities, with the Title of Lord-Keeper. And thus ended the Reign of the great Earl of Shaftsbury, the Prevalency of which had continued above three Years, but the Grandeur of it, in which he had no Equal, lasted a few Days less than one Year,

The

*The THIRTEENTH SESSION of the Second
Parliament*

COMMENCED *January* the 7th, 1673-4, when both the King, and his new Lord-Keeper, *Finch*, made a Speech, which are to be found in *CHAND. Hist. Anno 26, 1673-4, Car. II. Pages 186, 187, 188, 189, 190, 191*; as are likewise the principal Transactions of the Session; little of what relates, in particular, to the Lords, having reached the Public; and that little being to be found in the excellent Piece annexed to the following Session, which contains not only a History of the Test-Act, but of all the previous Steps introductory to it.

It is worthy Remark, that tho' this † Session continued six Weeks and three Days, no Money was granted by the Commons, nor no Bill was passed by the King:

During

† Some Days after the Prorogation, viz. February the 28th, Peace was proclaimed with the Dutch. The Treaty itself was founded on that of Breda in the Year 1667, and the Marriage-Treaty, made at the Hague in 1668, and consisted of five distinct Articles; of which here follows the Substance:

1. It is agreed, That the Ships and Vessels belonging to the United Provinces, as others, whether single or in Fleets, which shall happen to meet the King of Great Britain's Men of War in the British Seas, whether they also be single or in Fleets, provided they carry the King's Flag, shall strike their Flag, and lower their Top-sail: And the said States of the United Provinces shall order all their Commanders at Sea fully, and, bona fide, to comply with this Article. 2. It is agreed to make certain convenient Laws concerning Trade and Commerce of both Parties in the Indies, and other Places out of Europe, to an exact and reciprocal Rule; and limit the same within certain unalterable Laws. And because it appears too difficult to be immediately perfected, both Parties consent it shall be deferred; and Commissioners be nominated within three Months after the Conclusion of the Peace, who shall meet at London, and conclude the Matter in the most amicable Way. 3. Where-as the English complain of being detained in Surinam, contrary to Articles, it is agreed, That the States-General shall, bona fide, take Care that the said Articles shall be executed; and that the Space of three Months shall be allowed to the English Inhabitants for selling their Estates, who shall be transported at a moderate Rate, and be permitted to carry away their Slaves with them. 4. It is agreed, That if either Party shall, during this War, have possessed themselves of any Countries, Islands, Towns, Forts, Colonies, or other Places belonging to the other Party, all and every of the same, without any Distinction of Place or Time, shall be immediately, and, bona fide, restored in the same Condition they shall happen to be in, when Notice shall come of the Conclusion of the Peace in those Places. 5. To put an End to all Occasions and Causes of new Questions, Pretensions and Actions, of what Sort so-
ever

Anno 27, Car.
II. 1673-4.

During the Recess, a Rumour having prevailed, that the King intended to dissolve the Parliament; and his Majesty apprehending it would untale the leading Members, a Proclamation was set forth in *May*, declaring, ' That whereas of late many Persons, ill-affected to the Government, have assumed to themselves a Liberty, in their ordinary Discourses, to censure and defame the Proceedings of State, whereby they endeavour to create and nourish in the Minds of his Majesty's good Subjects an evil Opinion of Things they understand not; and further to promote their seditious Ends, they do daily invent false News, and spread the same abroad among the People, to the great Scandal of his Majesty's Government: Whereof his Majesty takes Notice, and in particular of that very false † Report of an *Intention to dissolve this present Parliament*, which hath not been under Deliberation, his Majesty seeing no Cause to change his Resolutions taken touching their Meeting: And therefore his Majesty would look upon the Spreaders of that Report seditiously in-

ever they be, or by what Name or Pretext soever claim'd, it is agreed, that the said States-General shall pay to the King of Great-Britain the Sum of eight hundred thousand Patacoons; which Sum the said States-General shall pay at certain Days, as followeth; viz. a fourth Part thereof as soon as the Ratifications shall be exhibited, and the rest the three ensuing Years by equal Proportions.'

And thus ended the second Dutch War that happened since the Restoration, which lasted from the public Proclamation of the War, to the Proclaiming the Peace, just two Years, wanting two Weeks and four Days, which was above five Months shorter than the last. And here it is observable, that in the last War, when the English contended with all the Power of Holland and France, they had greater Success in their Battles, than now, when they had joined with the Power of France against Holland alone: So insignificant, as well as unfortunate, was his Britannic Majesty's Alliance with such an insinuating and uncertain Monarch as the French King!

† This Report, however, came to be sufficiently authorized by Coleman's Letters, especially the following one. ' You agree with me, that Money is the only Means of bringing the King into the Duke's Interest, and of disengaging him from the Parliament; and you must agree with me, that nothing can more promote the Interest of the Catholic Party, which is the principal Object of the Duke's Care and Affection, and of the Hatred of the Parliament, and which must hope, or fear, according as the one or other of them increase in Power.—Nothing in the World is more certain, than that the King has a good Inclination towards the Duke and the Catholics, and would join himself willingly and inseparably to their Interests, if he did not apprehend some Danger from such an Union; which, however, he would not have Cause to fear, if he found their Interest, and consequently their Power, so far advanced above that of their Adversaries, that they should neither have the Power nor the Boldness to contest any Thing with them; which the King would see in a very little Time, if we could persuade him to do two or three Things: And I am certain Money could not fail of persuading him to it; for there is nothing it cannot make him do, tho' it were as much to his Prejudice, as this we endeavour to persuade him to, will be to his Advantage.'

inclined, and ill-affected to his Service, and was resolved to suppress that unlawful and undutiful kind of Discourse, by a most strict and exemplary Punishment of all such Offenders, as shall hereafter be discovered.' Anno 27, Car. II. 1673-4



[In the Interval between the Sessions, we must observe, that the Lord Chamberlain *Arlington*, one of the famous Cabal, had made a private Visit to the *Hague*, with a View, 1st, To draw the Prince into such Measures of a Peace as *France* then so much desired. 2^{dly}, Into a Discovery of those Persons who had made Advances to the Prince or the *States*, of raising Commotions in *England*. 3^{dly}, Into secret Measures with the King, of assisting him against any Rebels at Home, as well as Enemies Abroad. And 4^{thly}, Into the Hopes or Designs of a Match with the Duke of *York's* eldest Daughter. Tho', they said, the Earl found the Prince would not enter at all into the first; was obstinate against the second; treated the third as a Disrespect to the King, to think he could be so ill beloved, or so imprudent as to need it: And upon mention made of the last by the Lord *Offory*, he took no further hold of it, than saying, *His Fortunes were not in a Condition for him to think of a Wife*. The Lord *Arlington*, equally disappointed and discontented, took the first Opportunity of returning into *England*; and so finished his mystical Journey, which is here the more unveiled, because tho' it brought forth no present Fruits, yet Seeds were then scattered, which afterwards produced great Events. At his Return to Court, he was received but coldly by the King, and ill by the Duke, who was angry that any mention was made of his Daughter, tho' it was only done by the Lord *Offory*, and unknown whether with Order from the King or no: So that never any Strain of Court-Skill and Contrivance succeeded so unfortunately, and so contrary to all the proposed Ends of it. Instead of advancing the general Peace, he left it desperate; instead of establishing a Confidence between the King and the Prince, he left it colder than he found it; instead of entering into any personal Friendship with the Prince, he left an Unkindness that lasted ever after; instead of retrieving his Credit at Court, which he found wanting upon the Increase of the Lord *Danby's*, he made an End of all he had left with the King, who ever after used him with no farther Confidence than the Forms of his Place; and found the Treasurer *Danby's* Credit more advanced in six Weeks he had been away, than it had in many Months before.

As

Anno 27, Car.
II. 1674.

As the Credit of this Earl declined, so several Persons at Court took the Liberty to act and mimic his Person and Behaviour, as had been formerly done against the Lord Chancellor *Clarendon*; and it became a common Jest for some Courtier to put a black Patch upon his Nose, and strut about with a white Staff in his Hand, in order to make the King merry; yet he held his Lord-Chamberlain's Place to the Day of his Death. The Reason of the King's Coldness, or perhaps Displeasure, is believed to proceed from his late turning towards the popular Stream, and more especially his outward Proceedings against the Papists, when the Court believed him to be one inwardly himself. Concerning this, I have received a particular Story from an unquestionable Hand; namely, that Colonel *Richard Talbot*, afterwards Earl of *Tyrconnel*, having been some time absent from the Court, upon his Return, found the Earl of *Arlington's* Credit in a low Condition, and seeing him one Day acted by a Person with a Patch and Staff, he took Occasion to expostulate this Matter with the King, with whom he was very familiar; remonstrating *how very hard it was that poor Harry Bennet should be thus used, after he had so long and faithfully served his Majesty, and followed him every where in his Exile.* The King hereupon began to complain too, declaring what Cause he had to be dissatisfied with *Harry Bennet's* Conduct, *who had of late behaved himself after a strange manner; for not content to come to Prayers, as others do, he must be constant at Sacraments too: Why,* said Talbot interrupting him, *does not your Majesty do the very same Thing? God's fish!* replied the King with some Heat, *I hope there is a Difference between Harry Bennet and me.]*



The FOURTEENTH SESSION of the Second Parliament.

THE Way having been pav'd by a Declaration against Popish Priests and Jesuits, *April* the 13th, the Parliament met, after a Recess of almost fourteen Months; upon which Occasion the King made a Speech, as usual, to both Houses, as did likewise the Lord Keeper; both of which are to be found in *CHANDLER's Hist. Anno 26, Car. II. 1674-5. pag. 231, 202, 203, 204, 305.* as also is the grand Controversy between the Peers and Commons, on *Dr. Shirley's* Appeal, beginning at *page 210*, and what occurred most material beside on each, is contained in the Piece above-quoted, as follows :

A L E T

A * LETTER from a Person of Quality, to his Friend in
the Country.

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S I R,

THIS Session being ended, and the Bill of *Test* being finished at the Committee of the whole House; I can now give you a perfect Account of this State Master-piece. It was hatched (as almost all Mischiefs of the World had hitherto been) amongst the Church-men, and it is a Project of several Years standing, but found not Ministers bold enough to go through with it, until these new ones, who, wanting a better Bottom to support them, betook themselves wholly to this; which is no small Undertaking, if you consider it in its whole Extent.

1st, To make a distinct Party from the rest of the Nation of the high episcopal Man, and of the old Cavalier, who are to swallow the Hopes of enjoying all the Power and Office of the Kingdom; being also tempted by the Advantage they may receive from overthrowing the Act of Oblivion, and not a little rejoicing to think how valiant they should prove, if they could get any to fight the old Quarrel over again, now they are possessed of the Arms, Forts, and Ammunition of the Nation.

Next they design to have the Government of the Church sworn to, as unalterable, and so tacitly owned to be of Divine Right; which tho' inconsistent with the Oath of Supremacy, yet the Churchmen easily break through all Obligations whatsoever, to attain this Station, the Advantage of which, the Prelate of *Rome* hath sufficiently taught the World.

Then, in requital to the Crown, they declare the Government absolute and arbitrary, and allow Monarchy, as well as Episcopacy, to be *Jure Divino*, and not to be bounded or limited by any human Laws.

And to secure all this, they resolve to take away the Power and Opportunity of Parliament to alter any thing in the Church or State, only leaving them as an Instrument to raise Money, and to pass such Laws as the Church shall have a Mind to; The Attempt of any other, how necessary soever, must be no less a Crime than Perjury.

And, as the Top-Stone of the whole Fabric, a Pretence shall be taken from the Jealousies they themselves have raised, and a real Necessity from the Smallness of their Party, to increase and keep up a Standing-Army; and then in due

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R

time

* State-Tracts, Temp. Car. II. vol. 1. p. 41. This Piece was order'd by the Privy-Council to be burnt.

Anno 26, Car. II. 1674-5 time the Cavalier and Churchman will be made greater Fools, but as arrant Slaves as the rest of the Nation.

In order to this, the first Step was made in the Act for regulating Corporations; wisely beginning that in those lesser Governments, which they meant afterwards to introduce upon the Government of the Nation; and making them swear to a Declaration and Belief of such Propositions, as they themselves afterwards upon Debate were enforced to alter, and could not justify in those Words; so that many of the wealthiest, worthiest, and soberest of Men are still kept out of the Magistracy of those Places.

The next Step was in the Act of Militia, which went; for most of the chiefest Nobility and Gentry, being obliged, as Lord Lieutenants, Deputy Lieutenants, &c. to swear to the same Declaration and Belief, with the Addition only of these Words, *in pursuance of such military Commissions*; which makes the Matter rather worse than better. Yet this went down smoothly, as an Oath in Fashion, a Testimony of Loyalty; and, none adventuring freely to debate the Matter, the Humour of the Age, like a strong Tide, carries wise and good Men down before it. This Act is of a Piece; for it establisheth a Standing-Army by a Law, and swears us into a military Government.

Immediately after this, followeth the *Act of Uniformity*, by which all the Clergy of *England* are obliged to subscribe and declare, what the Corporations, Nobility and Gentry had before sworn; but with this additional Clause of the Militia-Act omitted. This the Clergy readily complied with; for you know that sort of Men are taught rather to obey, than understand; and to use that Learning they have, to justify, not to examine what their Superiors command: And yet that *Bartholomew-Day* was fatal to our Church and Religion, throwing out a very great Number of worthy, learned, pious and orthodox Divines, who could not come up to this, and other Things in that Act: And it is, upon this Occasion, worth your Knowledge, that so great was the Zeal in carrying on this Church-Affair; and so blind was the Obedience required, that, if you compute the Time in passing this Act, with the Time allowed for the Clergy to subscribe the Book of Common-Prayer thereby established, you shall plainly find it could not be printed and distributed so, as one Man in forty could have seen and read the Book they did so perfectly assent and consent to.

But this Matter was not complete until the *Five Mile-Act* passed at *Oxford*, wherein they take an Opportunity to introduce the Oath in the Terms they would have it: This was then strongly opposed by the Lord Treasurer *Southampton*, *Ld. Wharton*, *Ld. Ashley* (*Shafisbury*) and others, not only in the
Concern

Concern of those poor Ministers that were so severely handled, but as it was in itself a most unlawful and unjustifiable Oath. However, the Zeal of that Time against all Non-conformists, easily passed the Act. Anno 26, Car. II. 1674-5.

This Act was seconded the same Session at *Oxford*, by another Bill in the House of Commons, to have imposed that Oath on the whole Nation. And the Providence by which it was thrown out was very remarkable; for Mr. *Peregrine Bertie*, being newly chosen, was that Morning introduced into the House by his Brother the now Earl of *Lindsey*, and Sir *Thomas Osborne*, now Treasurer; who all three gave their Votes against that Bill; and the Members were so even upon the Division, that their three Votes carried the Question against it.

Thus our Church became triumphant, and continued so for divers Years; the Dissenting Protestant being the only Enemy, and therefore only persecuted; whilst the Papists remained undisturbed, being by the Court thought loyal, and by our great Bishop not dangerous, they differing only in Doctrine and Fundamentals; but as to the Government of the Church, that was in their Religion in its highest Exaltation.

This Dominion continued unto them until the Lord *Clifford*, a Man of a daring and ambitious Spirit, made his Way to the chief Ministry of Affairs by other, and far different Measures; and took the Opportunity of the War with *Holland*, the King was then engaged in, to propose the Declaration of Indulgence, that the Dissenters of all Sorts, as well Protestants as Papists, might be at rest, and so a Number of People not be made desperate at home, while the King was engaged with so potent an Enemy abroad. This was no sooner proposed, but the Earl of *Shaftsbury*, a Man as daring, but more able (tho' of Principles and Interest diametrically opposite to the other) presently closed with it; and perhaps the Opportunity I have had, by my Conversation with them both, who were Men of Diversion, and of free and open Discourse where they had a Confidence, may give you more Light into both their Designs, and so by consequence the Arms of their Parties, than you will have from any other Hand. My Lord *Clifford* did in express Terms tell me one Day, in private Discourse, 'That the King, if he would be firm to himself, might settle what Religion he pleased, and carry the Government to what Height he would; for if Men were assured of the Liberty of their Consciences, and undisturbed in their Properties, able and upright Judges made in *Westminster-Hall*, to judge the Causes of *meum* and *tuum*; and if, on the other hand, the Fort of *Tilbury* was finished to bridle the City, the Fort of *Plymouth* to secure the West, and

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Arms for 20,000 Men in each of these, and in *Hull* for the Northern Parts, with some Addition which might be easily and undiscernably made to the Forces now on foot, there were none that would have either Will, Opportunity, or Power to resist' But he added withal, 'He was so sincere in the Maintenance of Property and Liberty of Conscience, that if he had his Will, though he should introduce a Bishop of *Durham* (which was the Instance he then made, that See being then vacant) of another Religion, yet he would not disturb any of the Church beside, but suffer them to die away, and not by his Change (how hasty soever he was in it) overthrow either of these Principles, and therefore desired he might be thought an honest Man, as to his Part of the Declaration, for he meant it really.' The Lord *Shaftsbury* (with whom I had more Freedom) I with great Assurance asked what he meant by the Declaration? for it seemed to me (as I then told him) that it assumed a Power to repeal and suspend all our Laws, to destroy the Church, to overthrow the Protestant Religion, and to tolerate Popery. He replied, all angry, 'That he wondered at my Objection, there being not one of these in the Case; for the King assumed no Power of repealing Laws, or suspending them, contrary to the Will of his Parliament or People; and not to argue with me at that Time the Power of the King's Supremacy, which was of another Nature than that he had in Civils, and had been exercised without Exception in this Case, by his Father, Grandfather, and Queen *Elizabeth*, under the Great Seal, to foreign Protestants, become Subjects of *England*; not to instance in the suspending the Execution of the two Acts of Navigation and Trade, during both this and the last *Dutch War*, in the same Words, and upon the same Necessity, and as yet without Clamour that ever we heard: But to pass by all that, this is certain, a Government could not be supposed, whether monarchical, or of any other Sort, without a standing, supreme, executive Power, fully enabled to mitigate, or wholly to suspend any penal Law, in the Intervals of the Legislative Power; which, when assembled, there was no Doubt, but wherever there lies a Negative for passing of a Law, there the Address or Sense known of either of them to the contrary (as for instance, of either of the two Houses of Parliament in *England*,) ought to determine that Indulgence, and restore the Law to its full Execution, for without this the Laws were to no purpose made, if the Prince could annul them at Pleasure; and so, on the other hand, without a Power always in Being of dispensing upon Occasion, was to suppose a Constitution extremely imperfect and impracticable; and to cure those with a Legislative Power

always

always in Being, is, when considered, no other than a perfect Tyranny. As to the Church, he conceived the Declaration was extremely their Interest; for the narrow Bottom they had placed themselves upon, and the Measures they had proceeded by, so contrary to the Properties and Liberties of the Nation, must needs in a short time prove fatal to them; whereas this led them into another Way to live peaceably with the dissenting and differing Protestants, both at home and abroad, and so by Necessity and unavoidable Consequences, to become the Head of them all, for that Place is due to the Church of *England*, being in Favour, and of near Approach to the most powerful Prince of that Religion, and so always had it in their Hands to be the Intercessors and Procurers of the greatest Good and Protection that Party throughout all *Christendom* can receive. And thus the Archbishop of *Canterbury* might become, not only *alterius Orbis*, but *alterius Regionis Papa*, and all the Addition of Honour and Power, attained without the Loss or Diminution of the Church; it not being intended that one Living, Dignity, or Preferment should be given to any but those who were strictly conformable. As to the Protestant Religion, he told me plainly, it was for the preserving of that, and that only, that he heartily joined in the Declaration; for, besides that, he thought it his Duty to have Care in his Place and Station of those he was convinced were the People of God, and feared him, tho' of different Persuasions; he also knew nothing else but Liberty and Indulgence, that could possibly (as our Case stood) secure the Protestant Religion in *England*; and he begged me to consider, if the Church of *England* should attain to a rigid, blind, and undisputed Conformity, and that Power of our Church should come into the Hands of a popish Prince, which was not a Thing so impossible or remote, as not to be apprehended; whether in such a Case, wou'd not all the Arms, Artillery, and Government of the Church, be turned against the present Religion of it? And should not all good Protestants tremble to think what Bishops such a Prince was like to make, and whom those Bishops would condemn for Heretics, and that Prince might burn? Whereas, if this, which is now but a Declaration, might ever by the Expedience of it gain the Advantage of becoming an established Law, the true Protestant Religion would still be kept up amongst the Cities, Towns, and Trading Places, and the worthiest and soberest (if not the greatest) Part of the Nobility, Gentry, and People.'

As for the Toleration of Popery, he said, 'It was a pleasant Objection, since he could confidently say that the Papists had no Advantage in the least by this Declaration, that they did not as fully enjoy, and with less Noise, by the Favour
of

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of all the Bishops. It was the Vanity of the Lord-Keeper that they were named at all, for the whole Advantage was to the Dissenting Protestants, which were the only Men disturbed before ; and yet he confess'd to me that it was his Opinion, and always had been, that the Papists ought to have no other Pressure laid upon them, but to be made incapable of Office, Court, or Arms, and to pay so much as might bring them at least to a Balance with the Protestants for those chargeable Offices they are liable unto ; and concluded with this, that he desired me seriously to weigh, whether Liberty and Property were likely to be maintained long in a Country like ours, where Trade is so absolutely necessary to the very Being as well as the Prosperity of it ; and in this Age of the World, if Articles and Matters of Religion should become the only accessible Ways to our Civil Rights.'

Thus, Sir, you have perhaps a better Account of the Declaration, than you can receive from any other Hand ; and I could have wished it a longer Continuance, and better Reception than it had ; for the Bishops took so great an Offence at it, that they gave the Alarm of Popery thro' the whole Nation, and by their Emissaries the Clergy who, by the Connixture and Subordination of their Government, and their being posted in every Parish, have the Advantage of a quick dispersing their Orders, and a sudden and universal Insinuation of whatever they please) raised such a Cry, that those good and sober Men who had really long feared the Increase and Continuance Popery had hitherto received, began to believe the Bishops were in earnest, their Eyes open, tho' late, and therefore joined heartily with them ; so that, at the next Meeting of Parliament, the Protestant Interest was run so high, as an Act came up from the Commons to the House of Lords in favour of the Dissenting Protestants, and had passed the Lords, but for want of Time ; besides another excellent Act passed the Royal Assent for the excluding all Papists from Office, in Opposition of which the Lord Treasurer *Clifford* fell, and yet to prevent his Ruin this Session had the speedier End. Notwithstanding, the Bishops attained their Ends, the Declaration being cancelled, and the great Seal being broken off from it, the Parliament having passed no Act in favour of the Dissenters, and yet the Sense of both Houses sufficiently declared against all the Indulgence but by Act of Parliament. Having got this Point, they used it at first with seeming Moderation ; there were no general Directions given for prosecuting the Non-conformists, but here and there some of the most confiding Justices were made use of to try how they could revive the old Prosecution, for as yet the Zeal raised against Papists was so great, that the worthiest and soberest of the episcopal Party though it

it necessary to unite with the Dissenting Protestants, and not Anno 26, *Car.*
to divide their Party, when all their Forces were little e- II. 1674-5
nough: In this Posture the Sessions of Parliament that began
October the 27th, 1673, found Matters, which being suddenly
broken up, did nothing.

The next Sessions, which began *January* the 7th follow-
ing, the Bishops continued their Zeal against the Papists,
and seemed to carry on, in joining with the Country Lords,
many excellent Votes in order to a Bill; as in particular,
that the Princes of the Blood-Royal should only marry Protestants,
and many others; but their Favour to Dissenting Protestants
was gone, and they attempted a Bargain with the Country
Lords, with whom they then joined, not to promote any
thing of that Nature, except the Bill for taking away Assent
and Consent, and renouncing the Covenant.

This Session was no sooner ended without doing any
thing, but the whole Clergy were instructed to declare, *that*
there was now no more Danger of the Papists.

The Fanatic (for so they call the Dissenting Protestant) is
again become the only dangerous Enemy; and the Bishops
had found a *Scotch* Lord, and two new Ministers, or rather
great Officers of *England*, who were desperate and rash e-
nough to put their Master's Business upon so narrow and
weak a Bottom: And that old Covenanter *Lauderdale* is
become the Patron of the Church, and has his Coach and
Table filled with that Party. The Keeper and ——— are
of a just Size to this Affair; for it is a certain Rule with the
Churchmen to endure (as seldom as they can) in Business
Men abler than themselves. But his Grace of *Scotland* (*Lau-*
derdale) least to be excused of the three, for having fallen
from Presbytery, the Protestant Religion, and all Principles
of public Good and private Friendship, and become the
Slave of *Clifford*, to carry on the Ruin of all he professed to
support, does now also quit even *Clifford's* generous Princi-
ples, and betake himself to a sort of Men, that never for-
give any Man the having once been in the right, and such
Men who would do the worst of Things by the worst of
Means; enslave their Country, and betray them, under the
Mask of Religion, which they have public Pay for, and
Charge of; so seething the Kid in the Mother's Milk. Our
Statesmen and Bishops being now as well agreed as in old
Laud's Time, on the same Principles, with the same Passion,
to attain their End, they in the first Place gave Orders to the
Judges in all the Circuits to quicken the Execution of the
Laws against Dissenters: A new Declaration is published di-
rectly contrary to the former, most, in Words, against the
Papists, but in the Sense, and in the Close, did fully serve
against both, and in the Execution it was plain who were
meant.

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meant. A Commission besides comes down, directed to the principal Gentlemen of each Country, to seize the Estates of both Papists and Fanatics, mentioned in a List annexed, wherein, by great Misfortune or Skill, the Names of Papists of best Quality and Fortune (and so best known) were mistaken, and the Commission rendered ineffectual as to them.

Besides this, the great Ministers of State did in their common public Talk assure the Party, that all Places of Profit, Command, and Trust should only be given to the old Cavaliers; no Man that had served, or been of the contrary Party, should be left in any of them: And a Direction is to issue to the great Ministers before mentioned, and six or seven of the Bishops, to meet at *Lambeth-House*, who were, like the Lords of the Articles of *Scotland*, to prepare their complete Model for the ensuing Session of Parliament.

And now comes this memorable Session of * *April* the 13th, 1675, than which never any came with more Expectation of the Court, or Dread and Apprehension of the People; the Officers, Court-Lords, and Bishops were clearly the major Vote in the Lords House; and they assured themselves to have the Commons as much at their Disposal, when they reckoned the Number of Courtiers, Officers, Pensioners, increased by the Addition of the Church and Cavalier-Party, besides the Address they made to Men of the best Quality there, by Hopes of Honour, great Employments, and such Things as would take. In a Word, the *French* King's Ministers, who are the great Chapmen of the World, did not outdo ours this time, and yet the over-ruling Hand of God has blown upon their Politics, and the Nation is escaped this Session, like a Bird out of the Snare of the Fowler.

In this Session the Bishops wholly laid aside their Zeal against Popery. The Committee of the whole House for Religion,

* On this very Day the following Protest was enter'd, viz.

Die Martis 13^o Aprilis, 1675.

The Question being put, whether the humble Thanks of this House shall be now presented to his Majesty for his most gracious Speech?

It was resolved in the Affirmative.

Memorandum, That before the putting of the abovesaid Question, these Lords following desir'd Leave to enter their Dissents, if the Question was carried in the Affirmative; and accordingly did enter their Dissents as followeth:

The Question being put to give the King Thanks for his Speech, and we proposing to thank his Majesty for his gracious Expressions in his Speech, and it being laid aside, do think fit to enter our Dissent to the Vote, as it is now passed, because of the ill Consequence we apprehend may be from it; and that we think this Manner of Proceeding not so suitable to the Liberty of Debate necessary to this House.

Stamford, Mohun, P. Wharton, Halifax, Clarendon, Delamer, Salisbury, Will. Paget, Winchester, Shaftsbury.

Religion, which the Country Lords had caused to be set up again by the Example of the former Sessions, could hardly get, at any time, a Day appointed for their sitting, and the main Thing designed for a Bill voted in the former Session, viz. the marrying our Princes to none but Protestants, was rejected, and carried in the Negative by the unanimous Votes of the Bishops-Bench; yet the Lay-Lords, not understanding from how excellent a Principle this proceeded, commonly called them, for that Reason, the DEAD WEIGHT; and they really proved so in the following Business; for the third Day of this Session *this Bill of Test* was brought into the Lords House by the Earl of L. L. C. a Person of great Quality, but in this imposed upon, and received its first Reading, and Appointment for the second, without much Opposition, the Country Lords being desirous to observe what Weight they put upon it, or how they designed to manage it.

At the second Reading, the Lord-Keeper and some other of the Court-Lords recommended the Bill to the House in set and elaborate Speeches, the Keeper calling it, *a moderate Security to the Church and Crown*, and that no honest Man could refuse it, and whoever did gave great Suspicion of dangerous and antimonarchical Principles; the other Lords declaim'd very much upon the Rebellion of the late Times, the great Number of Fanatics, the dangerous Principles of Rebellion still remaining; carrying the Discourse on, as if they meant to trample down the Act of Oblivion and all those whose Security depended on it. But the Earl of *Shaftsbury*, and some other of the Country-Lords, earnestly pressed that they might not be engaged in the Debate of it; or else that the Freedom they should be forced to use in the necessary Defence of their Opinion, and the preserving of their Laws, Rights, and Liberties, which this Bill would overthrow, might not be misconstrued: For there are many Things that must be spoken upon the Debate, both concerning Church and State, that it was well known they had no Mind to hear; notwithstanding this, the great Officers and Bishops called out for the Question, of referring the Bill to a Committee; but the Earl of *Shaftsbury*, a Man of great Abilities and Knowledge in Affairs, and one in all these Variety of Changes of this last Age, was never known to be either bought, or frighted out of his public Principles, at large opened the mischievous, and ill Designs and Consequences of the Bill, which, as it was brought in, required all Officers of the Church and State, and Members of both Houses of Parliament, to take this Oath following:

I A. B. do declare, that it is not lawful, upon any Pretence whatsoever, to take up Arms against the King; and that I do
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abhor that traiterous Position of taking Arms by his Authority, against his Person, or against those that are commissioned by him in pursuance of such Commission: And I do swear, that I will not at any Time endeavour the Alteration of the Government either in Church or State: So help me God.

The Earl of *Shaftsbury* and other Lords spake with such convincing Reason, that all the Lords, who were at Liberty from Court-Engagements resolved to oppose, to the uttermost, a Bill of so dangerous a Consequence: And the Debate lasted five several Days before it was committed to a Committee of the whole House, which hardly ever happened to any Bill before. All this and the following Debates were managed chiefly by the Lords, whose Names you will find to the following Protestations; the first whereof was entered *April* the 21st, and is as followeth:

‘ We whose Names are underwritten, being Peers of this Realm, do, according to our Rights, and the antient Usage of Parliaments, declare, that the Question having been put, whether the Bill (entitled, *An Act to prevent the Dangers which may arise from Persons disaffected to the Government*) doth so far retrench upon the Privileges of this House, that it ought therefore to be cast out: It being resolved in the Negative, We do humbly conceive, that any Bill which imposeth an Oath upon the Peers with a Penalty, as this doth, that upon the Refusal of that Oath, they shall be made incapable of sitting and voting in this House; as it is a Thing unprecedented in former Times, so is it, in our humble Opinion, the highest Invasion of the Liberties and Privileges of the Peerage that possible may be, and most destructive of the Freedom which they ought to enjoy as Members of Parliament, because the Privileges of sitting and voting in Parliament is an Honour they have by Birth, and a Right so inherent in them, and inseperable from them, as that nothing can take it away, but what, by the Law of the Land, must wishtal take away their Lives, and corrupt their Blood; upon which Ground we do here enter our Dissent from that Vote, and our Protestation against it.

Buckingham, Bridgwater, Winchester, Salisbury, Bedford, Dorset, Ailsbury, Bristol, Denbigh, Paget, Hollis, Petre, Howard, E. of Berks, Mobun, Stamford, Hallifax, Delamer. Eure, Shaftsbury, Clarendon, Grey de Rolleston, Say and Seal, Wharton.

The next Protestation was against the Vote of committing the Bill (*April* 26) in the Words following.

The Question being put, Whether the Bill, entitled, *An Act to prevent the Dangers which may arise from Persons disaffected*

to the Government, should be committed ; it being carried in the Affirmative, and we, after several Days Debate, being in no measure satisfied, but still apprehending that this Bill doth not only subvert the Privileges and Birth-Right of the Peers, by imposing an Oath upon them, with the Penalty of losing their Places in Parliament, but also, as we humbly conceive, strike at the very Root of Government ; it being necessary to all Governments to have Freedom of Votes and Debates in those who have Power to alter and make Laws ; and besides the express Words of this Bill, obliging every Man to abjure all Endeavours to alter the Government in the Church, without regard to any thing that Rules of Prudence in the Government, or Christian Compassion to Protestant Dissenters, or the Necessity of Affairs at any time, shall or may require : Upon these Considerations, we humbly conceive it to be of dangerous Consequence to have any Bill of this Nature so much as committed, and do enter our Dissents from that Vote, and Protestation against it.

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Buckingham, Winton, Salisbury, Denbigh, Bristol, Howard of Berks, Clarendon, Stamford, Sbaisbury, Wharton, Moxon, Delamer.

Which Protestation was no sooner entered and subscribed the next Day, but the great Officers and Bishops raised a Storm against the Lords that had subscribed it : Endeavouring not only at some severe Proceedings against their Persons, if they had found the House would have borne it, but also to have taken away the very Liberty of entering Protestations with Reasons ; but that was defended with so great Ability, Learning, and Reason by the Lord *Hollis*, that they quitted the Attempt, and the Debate ran for some Hours either wholly to erase the Protestation out of the Books, or at least some Part of it, the Expression of *Christian Compassion to Protestant Dissenters* being that which gave them most Offence ; but both these ways were so disagreeable to the Honour and Privilege of the House, and the latter to Common-Sense and Right, that they despaired of carrying it, and contented themselves with having voted, that the Reasons given in the said Protestation did reflect upon the Honour of the House, and were of dangerous Consequence. And I cannot here forbear to mention the Worth and Honour of that noble Lord *Hollis*, suitable to all his former Life, that, when the Debate was at the Height, and the protesting Lords in Danger of the Tower, he begged the House to give him Leave to put his Name to that Protest, and take his Fortune with those Lords, because his Sickness had forced him out of the House the Day before ; so that not being at the Question, he could not by the Rules of the House sign it. This

Anno 26, Car. II. 1674-5. Vote against those twelve Lords began the next Day this following Protestation signed by twenty-one.

Whereas it is the undoubted Privilege of each Peer in Parliament, when a Question is put, contrary to his Vote and Judgment, to enter his Protestation against it, and that in Pursuance thereof, the Bill entitled, *An Act to prevent the Dangers which may arise from Persons disaffected to the Government*, being conceived by some Lords to be of so dangerous a Nature, as that it was not fit to receive the Countenance of a Commitment; those Lords did protest against the Commitment of the said Bill: And the House having taken Exceptions at some Expressions in their Protestation, those Lords, who were present at the Debate, did all of them severally and voluntarily declare, that they had no Intention to reflect upon any Member, much less upon the whole House, which, as is humbly conceived, was more than in Strictness did consist with that absolute Freedom of protesting, which is inseparable from every Member of this House, and was done by them merely out of their great Respect to the House, and their earnest Desire to give all Satisfaction concerning themselves, and the Clearness of their Intentions: Yet the House, not satisfied with this their Declaration, but proceeding to a Vote, That the Reasons given in the said Protestation do reflect upon the Honour of the House, and are of dangerous Consequence; which is, in our humble Opinion, a great discountenancing of the very Liberty of protesting; We, whose Names are under-written, conceiving ourselves and the whole House of Peers extremely concerned that this great Wound should be given (as we humbly apprehend) to so essential a Privilege of the whole Peerage of this Realm, as their Liberty of protesting, do now (according to our unquestionable Right) make use of the same Liberty to enter this our Dissent from, and Protesting against the said Vote.

Bucks, Winton, Bedford, Dorset, Salisbury, Bridgewater, Denbigh, Berks, Clarendon, Ailsbury, Shaftsbury, Say and Seal, Hallifax, Audley, Fitzwalter, Eure, Whar-ton, Mokun, Hollis, Delamer, Grey de Rolleston.

After this Bill being committed to a Committee of the whole House, the first thing insisted upon by the Lords against the Bill, was, that there ought to be passed some previous Votes to secure the Rights of Peerage and Parliament, before they entered upon the Debate or Amendments of such a Bill as this; and at last two previous Votes were obtained, which I need not here set down, because the next Protestation hath them both in *terminis*.

Whereas upon Debate on the Bill, entitled, *An Act to prevent the Dangers which may arise from Persons disaffected*

to the Government, it was ordered by the House of Peers, the Anno 28. Car. 30th of April last, That no Oath should be imposed by any Bill, or otherwise, upon the Peers with a Penalty in case of Refusal, to lose their Places, or Votes in Parliament, or Liberty to debate therein: And whereas also, upon Debate of the same, it was ordered, the third of this Instant May, that there shall be nothing in this Bill, which shall extend to deprive either of the Houses of Parliament, or any of their Members, of their just, antient Freedom and Privilege of debating any Matter or Business, which shall be propounded or debated in either of the said Houses, or at any Conference or Committee of both, or either of the said Houses of Parliament; or touching the Repeat, or Alteration of any old, or preparing any new Laws, or redressing any public Grievance; but that the said Members of either of the said Houses, and the Assistants of the House of Peers, and every of them, shall have the same Freedom of Speech, and all other Privileges whatsoever, as they had before the making of this Act. Both which Orders were passed as previous Directions unto the Committee of the whole House, to whom the said Bill was committed, to the end that nothing should remain in the said Bill, which might any ways tend towards the depriving of either of the Houses of Parliament, or any of their Members, of their antient Freedom of Debates, or Votes, or other their Privileges whatsoever. Yet the House being pleased, upon the Report from the Committee, to pass a Vote, That all Persons who have, or shall have Right to sit and vote in either House of Parliament, should be added to the first enacted Clause in the said Bill, whereby an Oath is to be imposed upon them as Members of either House; which Vote we, whose Names are under-written, being Peers of the Realm, do humbly conceive, is not agreeable to the said two previous Orders: And it having been humbly offered and insisted upon by divers of us, that the Proviso in the late Act, entitled, *An Act for preventing Dangers that may happen from Popish Recusants*, might be added to the Bill depending, whereby the Peerage of every Peer of this Realm, and all their Privileges, might be preserved in this Bill, as fully as in the said late Act; yet the House not pleasing to admit of the said Proviso, but proceeding to the passing of the said Vote, We do humbly, upon the Grounds aforesaid, and according to our undoubted Right, enter this our Dissent from, and Protestation against the same.

Buckingham. Bedford, Winton, Salisbury, Berks, Bridgewater, Stamford, Clarendon, Denbigh, Dorset, Shaftsbury. Wharton, Eure, Delamer, Paget, Mobun.

This

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This was their last Protestation; for after this they altered their Method, and reported not the Votes of the Committee, and Parts of the Bill to the House, as they pass'd them, but took the same Order, as is observed in other Bills, not to report unto the House, until they had gone through with the Bill, and so report all the Amendments together: This they thought a Way of more dispatch, and which did prevent all Protestations, until it came to the House; for the Votes of a Committee, tho' of the whole House, are not thought of that Weight, as that there should be allowed the entering a Dissent from them, or Protestation against them.

The Bill being read over at a Committee, the Lord-Keeper objected against the Form of it, and desired that he might put it in another Method; which was easily allowed him, that not being the Dispute. But it was observable the Hand of God was upon them in this whole Affair; their Chariot-Wheels were taken off, they drew heavily: A Bill so long designed, prepared, and of that Moment to all their Affairs, had hardly a sensible Composure.

The first Part of the Bill that was fallen upon was, Whether there should be an Oath at all in the Bill; and this was the only Part the Court Party defended with Reason. For the whole Bill being to enjoin an Oath, the House might reject it, but the Committee was not to destroy it. Yet the Lord *Hallifax* did, with that Quickness, Learning, and Elegance, which are inseparable from all his Discourses, make appear, that as there really was no Security to any State by Oaths, so also no private Person, much less Statesman, would ever order his Affairs as relying on it; no Man would ever sleep with open Doors, or unlock'd-up Treasure or Plate, should all the Town be sworn not to rob: So that the Use of multiplying Oaths had been most commonly to exclude or disturb some honest, conscientious Men, who would never have prejudiced the Government. It was also insisted upon by that Lord and others, that the Oath imposed by the Bill contained three Clauses, the two former assertory, and the last promissory; and that it was worthy the Consideration of the Bishops, whether assertory Oaths, capable to be fully assured by the Evidence of his Senses, be lawfully to be made use of to confirm and invalidate doctrinal Propositions; and whether that Legislative Power which imposeth such an Oath, doth not necessarily assume to itself an Infallibility; and, as for promissory Oaths, it was desired that those learned Prelates would consider the Opinion of *Grotius de Jure Belli & Pacis*, lib. II. 13. who seems to make it plain, that those kind-Oaths are forbidden by our Saviour *Christ*, *Mat. v. 34, 37.* and whether it would not become the Fathers of the Church, when they have well weighed that and other

other Places of the *New Testament*, to be more tender in Anno 26, Car. multiplying Oaths, than hitherto the great Men of the Church have been? But the Bishops carried the Point, and the Oath was ordered by the major Vote. II. 1674-5.

The next Thing in Consideration, was about the Persons that should be enjoined to take this Oath; and those were to be all such as enjoy'd any beneficial Office or Employment, ecclesiastical, civil, or military; and no farther went the Debate for some Hours, until at last the Lord-Keeper rises up, and with an eloquent Oration desires to add Privy Counsellors, Justices of the Peace, and Members of both Houses; the two former particularly mentioned only to usher in the latter, which was so directly against the two previous Votes; the first of which was enrolled amongst the Standing-Orders of the House, that it wanted a Man of no less Assurance in his Eloquence to propose it; and he was driven hard, when he was forced to tell the House, that they were Masters of their own Orders, and Interpretation of them.

The next Consideration at the Committee, was the Oath itself; and it was desired by the Country Lords that it might be clearly known, whether it were meant all for an Oath, or some of it for a Declaration, and some an Oath? If the latter, then it was desired it might be distinctly parted, and that the declaratory Part should be subscribed by itself, and not sworn. There was no small Pains taken by the Lord-Keeper and that Party to prove, that as it was brought in, the two first Parts were only a Declaration and not an Oath: And tho' it was replied, that to declare upon one's Oath, or to abhor upon one's Oath, is the same thing with, *I do swear*, yet there was some Difficulty to obtain the dividing of them, and that the declaratory Part should be only subscribed, and the rest sworn to.

The Persons being determined, and this Division agreed to, the next Thing was the Parts of the Declaration, wherein the first was, *I A. B. do declare, that it is not lawful, upon any Pretence whatsoever, to take up Arms against the King*. This was liable to great Objections; for it was said, it might introduce a great Change of the Government, to oblige all the Men in great Trust in *England* to declare, that exact Boundary and Extent of the Oath of Allegiance, and enforce some Things to be stated that are much better involved in Generals, and peradventure are not capable of another way of Expression, without great wrong on the one Side or the other. There is a Law of 25 *Edward III.* that Arms shall not be taken up against the King, and that it is Treason to do so; and it is a very just and reasonable Law: But it is an idle Question at best, to ask whether Arms in any Case can be taken up against a lawful Prince, because it

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it necessarily brings in the Debate in every Man's Mind, how there can be a Distinction then left between absolute and bounded Monarchies, if Monarchs have only the Fear of God, and no Fear of human Resistance to restrain them. And it was farther urged, that if the Chance of human Affairs, in future Ages, should give the *French* King a just Title and Investiture in the Crown of *England*, and he should avowedly own a Design by force to change the Religion, and make his Government here as absolute as in *France*, by the Extirpation of the Nobility, Gentry, and principal Citizens of the Protestant Party; whether in such, or like Cases, this Declaration be a Service to the Government, as it is now established: Nay, and it was farther said, that they overthrow the Government that propose to place any Part of it above the Fear of Man. For in our *English* Government, and all bounded Monarchies, where the Prince is not absolute, there every individual Subject is under the Fear of the King and his People, either for breaking the Peace, or disturbing the common Interest that every Man hath in it; or if he invades the Person or Right of his Prince, he invades his whole People, who have bound up in him, and derive from him, all their Liberty, Property, and Safety; as also the Prince himself is under the Fear of breaking that golden Chain and Connixture between him and his People, by making his Interest contrary to that they justly and rightly claim: And therefore neither our Ancestors, nor any other Country, free like ours, whilst they preserved their Liberties, did ever suffer any mercenary or standing Guards to their Prince, but took Care that his Safety should be in them, as theirs was in him. Tho' these were the Objections to this Head, yet they were but lightly touched, and not fully insisted upon, until the Debate of the second Head, where the Scope of the Design was opened clearer, and more distinct to every Man's Capacity.

The second was, *And that I do abhor that traiterous Position, of taking Arms by his Authority against his Person.* To this was objected, that if this be meant an Explanation of the Oath of Allegiance, to leave Men without Pretence to oppose where the individual Person of the King is, then it was to be considered, that the Position, as it is here set down, is universal; and yet, in most Cases, the Position is not to be abhorred by honest or wise Men: For there is but one Case, and that never like to happen again, wherein this Position is in Danger to be traiterous, which was the Case of the Long Parliament, made perpetual by the King's own Act, by which the Government was perfectly alter'd, and made inconsistent with itself; but it is to be supposed the Crown hath sufficient Warning, and full Power to prevent the falling again into that

that Danger. But the other Cases are many, and such as Anno 26, Car.
 may every Day occur, wherein this Position is so far from II. 1674-5.
 traitorous, that it would prove both necessary and our Duty. The famous Instance of *Henry VI.* who being a soft and weak Prince, when taken Prisoner by his Cousin *Edward IV.* that pretended to the Crown, and the great Earl of *Warwick*, was carried in their Armies, gave what Orders and Commissions they pleased, and yet all those that were loyal to him adhered to his Wife and Son, fought in a pitch'd Battle against him in Person, and retook him: This was directly taking up Arms by his Authority against his Person, and against those that were commissioned by him; and to this Day no Man hath ever blamed them, or thought but that if they had done otherwise, they had betray'd their Prince. The great Case of *Charles the Sixth of France*, who being of a weak and crazy Brain, yet governed by himself, or rather by his Wife, a Woman of passionate and heady Humour, that hated her Son the *Dauphin*, a vigorous and brave Prince, and passionately loved her Daughter; so that she easily (being pressed by the Victory of *Henry the Fifth of England*) complied to settle the Crown of *France* upon him, to marry her Daughter to him, and own his Right, contrary to the *Salique Law*. This was directly opposed with Arms and Force by the *Dauphin*, and all good *Frenchmen*, even in his Father's Life-time. A third Instance is that of King *James*, of blessed Memory, who, when he was a Child, was seized and taken Prisoner by those, who were justly thought no Friends to his Crown or Safety; and if the Case should be put, that a future King of *England* of the same Temper with *Henry VI.* or *Charles VI.* of *France*, should be taken Prisoner by *Spaniard*, *Dutch*, or *French*, whose over-growing Power should give them Thoughts of vast Empire, and should, with the Person and Commission of the King, invade *England* for a Conquest, were it not suitable to our Loyalty to join with the Son of that King, for the Defence of his Father's Crown and Dignity, even against his Person and Commission? In all these and the like Cases, it was not justified, but that the strict Letter of the Law might be otherwise construed, and, when wisely consider'd, fit it should be so; yet that it was not safe either for the Kingdom or Person of the King and his Crown, that it should be in express Words sworn against; for, if we shall forswear all Distinctions which ill Men have made ill Use of, either in Rebellion or Heresy, we must extend the Oath to all Particulars of Divinity and Politics. To this the aged Bishop of *Winchester* reply'd, *That to take up Arms in such Cases, is not against, but for the Person of the King*: But his Lordship was told, That he might then as well, nay much better, have left it upon the old Oath of
 1674-5. T Allegiance,

ANNO 26, CAR. II. 1674-5. Allegiance, than made such a wide Gap in his new Declaration.

The third and last Part of the Declaration was, *or against those that are commissioned by him.* Here the Mask was plainly pluck'd off, and arbitrary Government appeared bare-faced, and a Standing-Army to be established by Act of Parliament; for it was said by several of the Lords, *That if whatever is by the King's Commission be not opposed by the King's Authority, then a Standing Army is Law whenever the King pleases.*

For Instance, 'if, in Suit with a great Favourite, a Man recovers House and Lands, and by Course of Law be put into Possession by the Sheriff, and afterwards a Warrant is obtained by the Interest of the Person, to command some Soldiers of the Standing-Army to take the Possession, and deliver it back; in such Case, the Man in Possession may justify the defending himself, and killing those who shall violently endeavour to enter the House, yet the Party whose House is invaded takes up Arms by the King's Authority against those who are commissioned by him. And it is the same Case, if the Soldiers had been commissioned to defend the House against the Sheriff, when he first endeavoured to take the Possession according to Law, neither could any Order or Commission of the King put a Stop to the Sheriff, if he had done his Duty in raising the whole Force of that County to put the Law in Execution; neither can the Court, from whom that Order proceeds, (if they observe their Oath and Duty) put any Stop to the Execution of the Law in such a Case, by any Command or Commission from the King whatsoever; nay, all the Guards and Standing-Forces in *England* cannot be secured by any Commission from being a direct Riot, and unlawful Assembly, unless in Time of open War and Rebellion. And it is not out of the way to suppose, that if any King hereafter, contrary to the Petition of Right, demand and levy Money by Privy-Seal, or otherwise, and cause Soldiers to enter and distrain for such-like illegal Taxes, that in such a Case any Man may by Law defend his House against them; and yet this is of the same Nature with the former, and against the Words of the Declaration. These Instances may seem somewhat rough, and not with the usual Reverence towards the Crown; but they alledged, they were to be excused, when all was concerned: And without speaking thus plain, it is refused to be understood; and, however happy we are now, either in the present Prince, or those we have in Prospect, yet the Suppositions are not extravagant, when we consider Kings are but Men, and compassed with more Temptations than others; and, as the Earl of *Salisbury*, who stood like a Rock of Nobility, and *English* Principles, excellently reply'd to the Lord-Keeper, who was pleased to term them

them remote Instances, *That they would not hereafter prove so, when this Declaration had made the Practice of them justifiable.* Anno 26, Car. II. 1674-5.

These Arguments enforced the Lords for the Bill, to a Change of this Part of the Declaration; so they agreed the second and third Parts of it should run thus: *And I do abhor that traiterous Position of taking Arms by his Authority against his Person, or against those that are commissioned by him according to Law, in the Time of Rebellion or War, acting in Pursuance of such Commission;* which mends the Matter very little: For, if they mean the King's Authority, and his lawful Commission, to be two Things, and such as are capable of Opposition, then it is as dangerous to the Liberties of the Nation, as when it run in the former Words, and we are only cheated by new phrasing of it: But if they understood them to be one and the same Thing, as really and truly they are, then we are only to abhor the Treason of the Position of taking Arms by the King's Authority against the King's Authority, because it is Nonsense, and not practicable; and so they had done little but confessed, that all the Clergy, and many other Persons, have been forced, by former Acts of this present Parliament, to make this Declaration in other Words, that now are found so far from being justifiable, that they are directly contrary to *Magna Charta*, our Properties, and the established Law and Government of the Nation.

The next Thing in course was the Oath itself, against which the Objection lay so plain, and so strong at the first Entrance, *viz. That there was no Care taken of the Doctrine, but only the Discipline of the Church.* The Papists need not scruple the taking this Oath; for Episcopacy remains in its greatest Lustre, tho' the Popish Religion was introduced; but the King's Supremacy is jolted aside by this Oath, and makes better room for an ecclesiastical one, in so much that, with this and much more, they were enforced to change their Oath, and next Day bring it in as followeth; *I do swear that I will not endeavour to alter the Protestant Religion, or the Government of either Church or State.* By this they thought they had salved all, and now began to call their Oath, *A Security for the Protestant Religion, and the only good Design to prevent Popery*, if we should have a Popish Prince. But the Country Lords wondered at their Confidence in this; since they had never thought of it before, and had been but the last preceding Day of the Debate by pure Shame compelled to this Addition; for it was not unknown to them, that some of the Bishops themselves had told some of the Roman Catholic Lords of the House, that *Care had been taken it might be such an Oath, as might not bear upon them:* But let it be whatever they would have it, yet the Country Lords

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thought the Addition was unreasonable, and of as dangerous Consequence as the rest of the Oath ; and it was not to be wondered at, if the Addition of the best Things, wanting the Authority of an express divine Institution, should make an Oath not to endeavour to alter, just so much worse by the Addition. For as the Earl of *Shaftsbury* very well urged, that it is a far different thing to believe, or to be fully persuaded of the Truth of the Doctrine of our Church, and to swear never to endeavour to alter ; which last must be utterly unlawful, unless you place an Infallibility either in the Church or yourself ; you being otherwise obliged to alter, whenever a clearer or better Light comes to you ; and he desired Leave to ask, Where are the Boundaries, or where shall we find how much is meant by the Protestant Religion ? The Lord-Keeper thinking he had now got an Advantage, with his usual Eloquence, desires it might not be told in *Gath*, nor published in the Street of *Askelon*, that a Lord of so great Parts and Eminence, and professing himself for the Church of *England*, should not know what is meant by the Protestant Religion. This was seconded with great Pleasantry by divers of the Lords the Bishops ; but the Bishop of *Winchester*, and some others of them, were pleased to condescend to instruct that Lord, that the Protestant Religion was comprehended in thirty-nine Articles, the Liturgy, the Catechism, the Homilies, and the Canons. To this the Earl of *Shaftsbury* replied, that he begged so much Charity of them as to believe, that he knew the Protestant Religion so well, and was so confirmed in it, that he hoped he should burn for the Witness of it, if Providence should call him to it ; but perhaps he might think some Things not necessary, that they counted essential ; nay, he might think some Things not true, or agreeable to the Scripture, that they might call Doctrines of the Church : Besides, when he was to swear *never to endeavour to alter*, it was certainly necessary to know how far the just Extent of this Oath was ; but since they had told him that the Protestant Religion was in those five Tracts, he had still to ask, Whether they meant those whole Tracts were the Protestant Religion, or only that the Protestant Religion was contained in them ? If they meant the former of these, then he was extremely in the dark, to find the Doctrine of Predestination, in the 17th and 18th Articles, to be owned by so few great Doctors of the Church, and to find the 19th Article to define the Church directly as the Independents do. Besides, the 20th Article stating the Authority of the Church is very dark, and either contradicts itself, or says nothing, or what is contrary to the known Laws of the Land. Besides, several other Things in the thirty-nine Articles have been preached and writ against

gainst, by Men of great Favour, Power, and Preferment in the Church. Annals of Ger.
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He humbly conceived the Liturgy was not so sacred, being made by Men the other Day, and thought to be more differing from the dissenting Protestants, and less easy to be complied with, upon the Advantage of a Pretence well known unto us all, of making such Alterations as might the better unite us; instead whereof, there is scarce one Alteration but widens the Breach: And no Ordination allowed by it here, (as it now stands last reformed in the Act of Uniformity) but what is episcopal; insomuch that a Popish Priest is capable, when converted, of any Church-Preferment without Re-ordination; but no Protestant Minister not episcopally ordained, but is required to be re-ordained; as much as in us lies, un-churching all the foreign Protestants that have not Bishops; tho' the contrary was both allowed and practised from the beginning of the Reformation, till the Time of that Act, and several Bishops made of such as were never ordained Priests by Bishops. Moreover the Un-charitableness of it was so much against the Interest of the Crown and Church of *England*, (casting off the Dependency of the whole Protestant Party Abroad) that it would have been bought by the Pope and *French King*, at a vast Sum of Money; and it is difficult to conceive so great an Advantage fell to them merely by Chance, and without their Help. So that he thought, to endeavour to alter, and restore the Liturgy to what it was in Queen *Elizabeth's* Days, might consist with his being a very good Protestant.

As to the Catechism, he really thought it might be mended, and durst declare to them, it was not well that there was not a better made.

For the Homilies, he thought there might be a better Book made; and the third Homily, of *repairing and keeping clean of Churches*, might be omitted.

What is yet stranger than all this, the Canons of our Church are directly the old Popish Canons, which are still in force, and no other; which will appear, if you turn to the *Stat. 25. Henry VIII. cap. 19.* confirmed and revived by *Elizabeth*, where all those Canons are established, until an Alteration should be made by the King in pursuance of that Act: Which Thing was attempted by *Edward VI.* but not perfected, and let alone ever since; for what Reasons the Lord-Bishops could best tell. And it was very hard to be obliged by Oath not to endeavour to alter either the *English Common-Prayer-Book*, or the Canon of the Mass.

But if they meant the latter, that the Protestant Religion is contained in all those, but that every Part of those is not the Protestant Religion, then he apprehended it might be

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in the Bishop's Power to declare, *ex post facto*, what is the Protestant Religion or not, or else they must leave it to every Man to judge for himself, what Part of those Books are or are not, and then their Oath had been much better let alone.

Much of this nature was said by that Lord and others; and the great Officers and Bishops were so hard put to it, that they seemed convinced, and willing to admit of an Expedient.

The Lord *Wharton*, an old and expert Parliament man, of eminent Piety and Abilities, beside a great Friend to the Protestant Religion, and Interest of *England*, offered as a Cure to the whole Oath, and what might make it pass in all the three Parts of it, without any farther Debate, the Addition of these Words at the latter end of the Oath, *viz. As the same is or shall be established by Act of Parliament*. But this was not endured at all; when the Lord *Grey of Rolleston*, a worthy and true *English* Lord, offered another Expedient, which was the Addition of these Words, *by Force or Fraud*, to the beginning of the Oath; and then it would run thus; *I do swear not to endeavour by Force or Fraud to alter*: This was also a Cure that would have passed the whole Oath, and seemed as if it would have carried the whole House, the Duke of *York* and Bishop of *Rockester* both seconding it; but the Treasurer, who had privately before consented to it, speaking against it, gave the Word and Sign to that Party; and it being put to the Question, the major Vote answered all Arguments, and the Lord *Grey's* Proposition was laid aside.

Having thus carried the Question, lying upon their Strength of Votes, taking Advantage that those Expedients, that had been offered, extended to the whole Oath, though but one of the three Clauses in the Oath had been debated, the other two not mentioned at all; they attempted strongly, at nine of the Clock at Night, to have the whole Oath put to the Question; and tho' it was resolutely opposed by the Lord *Mobun*, a Lord of great Courage and Resolution, in the public Interest, and one whose own personal Merits, as well as his Father's, gave him a just Title to the Favours of the Court; yet they were not diverted but by as great a Disorder as ever was seen in that House, proceeding from the Rage, those unreasonable Proceedings had caused in the Country Lords; they standing up in a Lump together, and crying out with so loud a continued Voice, *Adjourn*, that when Silence was obtained, Fear did, what Reason could not do, cause the Question to be put only upon the first Clause concerning the Protestant Religion, to which the Bishops desired might be added, *as it is now established*; and one of the

the eminentest of those that were for the Bill, added the Words *by Law* ; so that as it was passed, it ran

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I A. B. do swear, that I will not endeavour to alter the Protestant Religion, now by Law established in the Church of England.

And here observe the Words, *by Law*, do directly take in the *Canons*, tho' the Bishops had never mentioned them. And now comes the Consideration of the latter Part of the Oath, which comprehends these two Clauses ; *viz. Nor the Government, either in Church or State.* Wherein the Church came first to be considered. And it was objected by the Lords against the Bill, *that it was not agreeable to the King's Crown and Dignity, to have his Subjects sworn to the Government of the Church, equally, as to himself* : That for the Kings of *England* to swear to maintain the Church, was a different Thing from enjoining all his Officers, and both his Houses of Parliament to swear to them. It would be well understood, before the Bill passed, that the *Government of the Church* (we are to swear to) is, and what the Boundaries of it ; whether it derives no Power nor Authority, nor the Exercise of any Power, Authority, or Function, but from the King, as Head of the Church, and from God, as through him, as all his other Officers do.

For no Church or Religion can justify itself to the Government, but the State-Religion, that owns an entire Dependency on, and is but a Branch of it ; or the Independent Congregations, whilst they claim no other Power, but the Exclusion of their own Members from their particular Communion ; and endeavour not to set up a Kingdom of Christ to their own Use in this World, whilst our Saviour hath told us, that his Kingdom is not of it ; for otherwise there would be *Imperium in Imperio*, and two distinct supreme Powers inconsistent with each other, in the same Place, and over the same Persons. The Bishops alledged, that Priesthood, and the Power thereof, and the Authorities belonging thereunto, were derived immediately from Christ ; but that the Licence of exercising that Authority and Power in any Country is derived from the Civil Magistrate. To which was replied, *That it was a dangerous Thing to secure by Oath, or Act of Parliament, those in the Exercise of an Authority and Power in the King's Country, and over his Subjects, which, being received from Christ himself, cannot be altered or limited by the King's Laws* : And that this was directly to set the Mitre above the Crown. And it was farther offered, *That this Oath was the greatest Attempt that had been made against the King's Supremacy, since the Reformation* ; for the King in Parliament may alter, diminish, enlarge or take away any Bishoprick ; he may take any Part of a Diocese,

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or a whole Diocese, and put them under Deans, or other Persons; for if this be not lawful, but that Episcopacy should be *Jure Divino*, the maintaining the Government as it is now is unlawful; since the Deans of *Hereford* and *Salisbury* have very large Tracts under their Jurisdiction, and several Parsons of Parishes have episcopal Jurisdiction; so that, at best, that Government wants Alteration that is so imperfectly settled. The Bishop of *Winchester* affirmed in this Debate several times, that there was no Christian Church before *Calvin*, that had not Bishops; to which he was answered, that the *Albigenses*, a very numerous People, and the only visible known Church of the true Believers, of some Ages, had no Bishops. It is very true what the Bishop of *Winchester* replied, that they had some amongst them, who alone had Power to ordain, but that was only to commit that Power to the wisest and gravest amongst them, and to secure ill and unfit Men from being admitted into the Ministry; but they exercised no Jurisdiction over the others. And it was said by divers of the Lords, that they thought episcopal Government best for the Church, and most suitable to the Monarchy; but they must say, with the Lord of *Southampton*, (upon the Occasion of this Oath in the Parliament of *Oxford*) *I will not be sworn not to take away Episcopacy*; there being nothing that is not of divine Precept, but such Circumstances may come in human Affairs as may render it not eligible by the best of Men. And it was also said, *If Episcopacy be to be received as by divine Precept, the King's Supremacy is overthrown*; and so is also the Opinion of the Parliaments, both in *England* the Sixth, and Queen *Elizabeth's* Time, and the Constitution of our Church ought to be altered, as hath been shewed. But the Church of *Rome* itself hath contradicted that Opinion, when she hath made such vast Tracts of Ground, and great Numbers of Men exempt from episcopal Jurisdiction. The Lord *Whar-ton*, upon the Bishops Claim to a Divine Right, asked a very hard Question, *viz. Whether they then did not claim, withal, a Power of excommunicating their Prince?* which they evading to answer, and being pressed by some other Lords, said, *They never had done it*. Upon which the Lord *Hallifax* told them, *That that might well be; for since the Reformation, they had hitherto had too great a Dependence on the Crown to venture on or any other Offence to it*.

And so the Debate passed on to the third Clause, which had the same Exceptions against it with the two former, of being unbounded, how far any Man might meddle, and how far not; and is of that Extent, that it overthrew all Parliament, and left them capable of nothing but giving Money. For what is the Business of Parliaments, but the Alteration,
either

either by adding, or taking away, of some Part of the Government, either in Church or State ? And every new Act of Parliament is an Alteration ; and what kind of Government in Church and State must that be, which I must swear, upon no Alteration of Time, Emergency of Affairs, nor Variation of human Things, ever to endeavour to alter ? Would it not be requisite that such a Government should be given by God himself, and that with all the Ceremony of Thundering and Lightening, and visible Appearance to the whole People, which God vouchsafed to the Children of *Israel* at *Mount Sinai* ? And you shall no where read that they were sworn to it by an Oath like this ; nay, on the contrary, the Princes and the Rulers, even those recorded for the best of them, did make several Variations. The Lord *Stafford*, a Nobleman of great Honour and Candour, but who had been all along for the Bill, yet was so far convinced with the Debate, that he freely declared, there ought to be an Addition to the Oath, for preserving the Freedom of Debates in Parliament. This was strongly urged by the never-to-be-forgotten Earl of *Bridgewater*, who gave Reputation and Strength to this Cause of *England*, as did also those worthy Earls, *Denbigh*, *Clarendon*, and *Ailsbury*, Men of great Worth and Honour. To save all that was said by these and the other two Lords, the Lord Keeper and the Bishops urged, that there was a Proviso, which fully preserved the Privileges of Parliament ; and, upon further Enquiry, there appearing none such, but only a previous Vote, as it is before mentioned, they allowed that that previous Vote should be drawn into a Proviso, and added to the Bill ; and then, in their Opinion, the Exception to the Oath for this Cause was perfectly removed. But on the other Side it was offered, that a positive, absolute Oath being taken, a Proviso in the Act could not dispense with it, without some Reference in the Body of the Oath unto that Proviso ; but this also was utterly denied until the next Day, the Debate going on upon other Matters, the Lord Treasurer, whose Authority easily obtained with the major Vote, re-assumed what was mentioned in the Debates of the preceding Days, and allowed a Reference to the Proviso, so that it then passed in these Words :

I A. B. do swear, that I will not endeavour to alter the Protestant Religion, now by Law established in the Church of England, nor the Government of the Kingdom in Church or State as it is now by Law established ; and I do take this Oath according to the Meaning of this Act, and the Proviso contained in the same. So help me God.

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There was a Passage of the very greatest Observation in the whole Debate, and which with most Clearness shewed what the great Men and Bishops aimed at, and should in order have come in before, but that it deserved so particular a Consideration, that I thought best to place it here by itself; which was, that upon passing of the Proviso for preserving the Rights and Privileges of Parliaments, made out of the previous Votes,

It was excellently observed by the Earl of *Bolingbroke*, a Man of great Ability and Learning in the Laws of the Land, and perfectly stedfast in all good *English* Principles, *That tho' that Proviso did preserve the Freedom of Debates and Votes in Parliament, yet the Oath remained, notwithstanding that Proviso, upon all Men that should take it, as a Prohibition, either by Speech, or Writing, or Address, to endeavour any Alteration in Religion, Church, or State; nay, also upon the Members of both Houses otherwise than as they speak and vote in open Parliament or Committees: For the Oath takes away all private Converse upon any such Affairs even with one another.* This was seconded by the Lord *Delamer*, whose Name is well known, as are also his Worth, Piety, and Learning; I should mention his Merits too, but know not whether that be lawful, they lying yet unrewarded. The Lord *Shaftsbury* presently drew up some Words for preserving the same Rights, Privileges, and Freedoms, which Men now enjoy by the Laws establish'd; that so, by a Side-Wind, we may not be deprived of the great Liberty we enjoy as *Englishmen*, and desir'd those Words might be insert'd in this Proviso before it pass'd. This was seconded by many of the forementioned Lords, and press'd upon those Terms, that they desired not to countenance, or make in the least Degree any thing lawful, that was not already so, but that they may not be deprived, by this dark Way of Proceeding, of that Liberty which was necessary to them as Men, and without which Parliaments would be rendered useless. Upon this all the great Officers shew'd themselves, nay, the Duke of *Lauderdale* himself, though under the Load of two Addresses, open'd his Mouth, and, together with the Lord-Keeper, and the Lord-Treasurer, told the Committee in plain Terms, That they intended, and design'd to prevent caballing, and Conspiracies against the Government; and they knew no Reason why any of the King's Officers should consult with Parliament-Men about Parliament-Business, and particularly mentioned those of the Army, Treasury, and Navy; and when it was objected to them, that the greatest Part of the most knowing Gentry were either Justices of the Peace, or of the Militia, and that this took away all Converse, or Discourse of any Alteration, which was in truth of any Business in Parliament, and that the

the Officers of the Navy and Treasury might be best able to advise what should be fit in many Cases; and withal none of their Lordships did offer any thing to salve the Inconvenience of Parliament-Men being deprived of discoursing one with another, upon the Matters that were before them. Besides, it must be again remember'd, that nothing was herein desired to be countenanced, or made lawful, but to preserve that that is already Law, and avowedly justified by it; for without this Addition to the Proviso, the Oath tender'd Parliaments but a Snare, not a Security to the People,

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Yet to all this was answer'd, sometimes with Passion and high Words, sometimes with Jest and Raillery, (the best they had) and at least the major Vote answer'd all Objections, and laid aside the Addition tender'd.

There was another Thing before the finishing of the Oath, which I shall here also mention, which was an additional Oath tender'd by the Marquis of *Winchester*, who ought to have been mention'd in the first and chiefest Place, for his Conduct and Support in the whole Debate, being an expert Parliament-Man, and one whose Quality, Parts, Fortune, and Owning of good Principles, concur to give him one of the greatest Places in the Esteem of good Men. The additional Oath tender'd was as followeth.

I do swear, that I will never, by Threats, Injunctions, Promises, Advantages, or Invitation, by or from any Person whatsoever, nor from the Hopes or Prospect of any Gift, Place, Office, or Benefit whatsoever, give my Vote other than according to my Opinion and Conscience, as I shall be truly and really persuaded upon the Debate of any Business in Parliament.

So help me God.

This Oath was offer'd upon the Occasion of swearing Members of Parliament; and upon this Score only, that if any new Oath was thought fit (which that noble Lord declared his Judgment perfectly against) this certainly was most necessary to be a Part; and the Nature of it was not so strange, if they consider'd the Judges Oath, which was not much different from this. To this the Lord-Keeper seem'd very averse, and declar'd, in a very fine Speech, that it was an useless Oath; for all Gifts, Places and Offices were likeliest to come from the King, and no Member of Parliament in either House could do too much for the King, or be too much of his Side; and that Men might lawfully and worthily have in their Prospect such Offices or Benefits from him. With this the Lords against the Bill were in no Terms satisfied, but plainly spoke out, *That Men have been, might, and were likely to be, in either House, too much for the King, as they called it; and that whoever did endeavour to give more Power to*

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the King, than the Law and Constitution of the Government had given him, especially if it tended to the introducing an absolute and arbitrary Government, might justly be said to do too much for the King, and to be corrupted in his Judgment by the Prospect of Advantages and Rewards; though, when it is consider'd, that every Deviation of the Crown towards absolute Power lessens the King in the Love and Affection of his People, making him become less in their Interest, a wise Prince will not think it a Service done him.

And now remains only the last Part of the Bill, which is the Penalty, different according to the Qualifications of the Persons: *All that are or shall be Privy-Councillors, Justices of the Peace, or Possessors of any beneficial Office, ecclesiastical, civil, or military, are to take the Oath, when summoned, upon Pain of 500 l. and being made incapable of bearing Office; the Members of both Houses are not made incapable, but liable to the Penalty of 500 l. if they take it not.* Upon all which, the Considerations of the Debate were, that those Officers and Members of both Houses are, of all the Nation, the most dangerous to be sworn into a Mistake, or Change of the Government; and that, as to the Members of both Houses, the Penalty of 500 l. was directly against the latter of the two previous Votes; and although they had not applied the Penalty of Incapacity unto the Members of both Houses, because of the first previous Vote in the Case of the Lords; neither durst they admit of a Proposition made by some of themselves, *that those that did not come up, and sit as Members, should be liable to the taking the Oath, or Penalty, until they did so*: Yet their Ends were not to be compassed without invading the latter previous Vote, and, contrary to the Rights and Privileges of Parliament, enforcing them to swear, or pay 500 l. every Parliament. And this they carried through with so strong a Resolution, that, having experienced their Misfortunes in Replies for several Hours, not one of the Party could be provoked to speak one Word.

Though, besides the former Arguments, it was strongly urged, that this Oath ought not to be put upon Officers with a heavier Penalty than the *Test* was in the Act of the immediate preceding Session against the Papists; by which any Man might sit down with the Loss of his Office, without being in Danger of the Penalty of 500 l. And also that this Act had a direct Retrospect, (which ought never to be in penal Laws) for this Act punishes Men for having an Office without taking this Oath, which Office, before this Law pass, they may now lawfully enjoy without it. Yet notwithstanding, it provides not a Power, in many Cases, for them to part with it, before this Oath overtakes them.

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For the Clause, *whoever is in Office the first of September*, Anno 26. Car. II. 1674-5.
 will not relieve a Justice of the Peace, who being once sworn, has it not in his Power to be left out of Commission. And so might be instanced in several other Cases. As also the Members of the House of Commons have it not in their own Power to be unchosen; and as to the Lords, they were subjected by it to the meanest Condition of Mankind, if they could not enjoy their Birthright, without playing Tricks suitable to the Humour of every Age, and being enforced to swear to every Fancy of the present Times. Three Years ago it was *all Liberty and Indulgence*, and now it is *strict and rigid Conformity*; and what it may be in some short Time hereafter, without the Spirit of prophesying, might be shrewdly guessed by a considering Man:

This being answer'd with Silence, the Duke of Buckingham, (whose Quality, admirable Wit, and unusual Pains that he took all along in the Debate against this Bill, makes me mention him in this Place, as General of the Party, and coming last out of the Field) made a Speech, late at Night, of eloquent and well-placed Nonsense, shewing how excellently well he could do both ways, and hoping that might do, when Sense (which he often before used with the highest Advantage of Wit and Reason) would not; but the Earl of Wharton, readily apprehending the Dialect, in a short Reply, put an End to the Debate; and the major Vote, *ultima Ratio Senatuum, & Conciliorum*, carried the Question as the Court and Bishops would have it.

This was the last Act of this Tragi-Comedy, which had taken up sixteen or seventeen whole Days Debate, the House sitting many times till eight or nine of the Clock at Night, and sometimes till Midnight; but the Business of Privilege between the two Houses gave such an Interruption, that this Bill was never reported from the Committee to the House.

I have mentioned to you divers Lords, that were Speakers, as it fell in the Debate, but I have not distributed the Arguments of the Debate to every particular Lord. Now you know the Speakers, your Curiosity may be satisfied, and the Lords I am sure will not quarrel about the Division. I must not forget to mention those great Lords, *Bedford, Devonshire* and *Burlington*, for the Countenance and Support they gave to the *English* Interest. The Earl of *Bedford* was so brave in it, that he joined in three of the Protests; so also did the Earl of *Dorset*, and the Earl of *Stamford*, a young Nobleman of great Hopes; the Lord *Eure*, the Lord Viscount *Say and Seal*, and the Lord *Paget*, in two; the Lord *Audely*, and the Lord *Fitzwalter* in the third; and the Lord *Petre*, a Nobleman of great Estate, and always true to the Maintenance of Liberty and Property, in the first: And

I should

Anno 26, Car. II. 1674-5. I should not have omitted the Earl of *Dorset*, Lord *Audley*, and Lord *Petre* amongst the Speakers: For I will assure you they did their Parts excellently well. The Viscount *Hereford* was a steady Man among the Country Lords; so also was the Lord *Townsend*, a Man justly of great Esteem and Power in his Country; and amongst all those that well know him, the Earl of *Carnarvan* ought not to be mentioned in the last Place; for he came out of the Country on purpose to oppose the Bill, stuck very fast to the Country Party, and spoke many excellent Things against it. I dare not mention the Roman Catholic Lords and some others, for fear I hurt them; but thus much I shall say of the Roman Catholic Peers, that, if they were safe in their Estates, and yet kept out of Office, their Votes in that House would not be most unsafe to *England* of any sort of Men in it. As for the absent Lords, the Earl of *Rutland*, Lord *Sandys*, Lord *Herbert* of *Cherbury*, Lord *North*, and Lord *Crew*, ought to be mentioned with Honour, having taken Care their Votes should maintain their own Interest and Opinion.

Thus, Sir, you see the Standard of the new Party is not yet set up, but must be the Work of another Session, tho' it be admirable to me, how the King can be induced to venture his Affairs upon such weak Councils, and of so fatal Consequences; for I believe it is the first time in the World, that ever it was thought advisable, after fifteen Years of the highest Peace, Quiet and Obedience, that ever was in any Country, that there should be a Pretence taken up, and a reviving of former Miscarriages, especially after so many Promises and Declarations, as well as Acts of Oblivion, and so much Merit of the offending Party, in being the Instruments of the King's happy Return, besides the putting so vast a Number of the King's Subjects in utter Despair of having their Crimes ever forgotten; and it must be a great Mistake in Councils, or worse, that there should be so much Pains taken by the Court, to debase and bring low the House of Peers, if a military Government be not intended by some. For the Power of Peerage and a Standing-Army are like two Buckets, the Proportion that one goes down, the other exactly goes up. And I refer you to the Consideration of all the Histories of our own, or any of our Neighbour Northern Monarchies, whether Standing-Forces, military and arbitrary Government, came not plainly in by the same Steps whereby the Nobility were lessened; and whether, whenever they were in Power and Greatness, they permitted the least Shadow of any of them: Our own Country is a clear Instance of it; for tho' the white Rose and the red changed Fortune often, to the Ruin, Slaughter, and beheading of the great Men on the other Side, yet nothing could

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enforce them to secure themselves by a Standing-Force. Anno 26, Car.
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 But I cannot believe that the King himself will ever design any such thing; for he is not of a Temper robust and laborious enough to deal with such a sort of Men, or reap the Advantages, if there be any, of such a Government: And I think, he can hardly have forgot the Treatment his Father received from the Officers of his Army, both at *Oxford* and *Newark*; it was an hard, but almost an even Choice, to be the Parliament's Prisoner, or their Slave; but I am sure the greatest Prosperity of his Arms could have brought him to no happier Condition, than our King his Son hath before him whenever he pleases. However, this may be said for the Honour of this Session, that there is no Prince in *Christendom* hath, at a greater Expence of Money maintained, for two Months Space, a nobler, or more useful Dispute of the Politics, Mystery and Secrets of Government, both in Church and State, than this hath been; of which noble Design no Part is owing to any of the Country Lords, for several of them begged at the first Entrance into the Debates, that they might not be engaged in such Disputes, as would unavoidably produce divers things to be said, which they were willing to let alone. But I must bear them witness, and so will you, having read this, that they did their Parts in it, when it came to it, and spoke plain, like old *English* Lords.

I shall conclude with what, upon the whole Matter, is most worthy our Consideration, that the Design is to declare us, first, into another Government more absolute and arbitrary than the Oath of Allegiance or old Law knew, and then make us swear unto it, as it is so established: And less than this the Bishops could not offer in requital to the Crown for parting with its Supremacy, and suffering them to be sworn equal with itself. Archbishop *Laud* was the first Founder of this Device. In his Canons of 1640, you shall find an Oath very like this, and a declaratory Canon preceding, *That Monarchy is of Divine Right*; which was also affirmed in this Debate by our reverend Prelates; and it is owned in Print by no less Men than Bishop *Usher* and Bishop *Sanderson*; and I am afraid it is the avowed Opinion of much the greater Part of our dignified Clergy. If so, I am sure they are the most dangerous sort of Men alive to our *English* Government; and it is the first Thing ought to be looked into, and strictly examined by our Parliaments; it is the Leaven that corrupts the whole Lump. For if that be true, I am sure Monarchy is not to be bounded by human Laws; and the eighth Chapter of *1 Samuel* will prove (as many of our Divines will have it) the great Charter of the Royal Prerogative; and our *Magna Charta*, that says *Our Kings may not take*

Anno 26, Car. II. 1674-5. *take our Fields, our Vineyards, our Corn, and our Sheep, is not in Force, but void and null because against Divine Institution.* And you have the Riddle out, why some of the Clergy are so ready to take themselves, and impose upon others, such kind of Oaths as these: They have placed themselves and their Possessions upon a better and surer Bottom (as they think) than *Magna Charta*, and so, have no more Need of or Concern for it. Nay, what is worse, they have trucked away the Rights and Liberties of the People, in this and all other Countries wherever they have had Opportunity; that they might be owned by the Prince to be *Jure divino*, and maintained in that Pretention, by that absolute Power and Force they have contributed so much to put into his Hands; and that Priest and Prince may, like *Castor* and *Pollux*, be worshipped together as divine, in the same Temple, by us poor Lay-Subjects; and that Sense and Reason, Law, Properties, Rights and Liberties, shall be understood as the Oracles of those Deities shall interpret or give Signification to them, and never be made use of in the World to oppose the absolute and free Will of either of them.

Sir, I have no more to say, but beg your Pardon for this tedious Trouble, and that you will be very careful to whom you communicate any of this.

The Protests which occur'd this Session, and are not already inserted, are as follow:

Die Jovis 6^o Maii, 1675.

The Commons by Message signified they were inform'd, an Appeal was depending before the Lords at the Suit of *Shirley*, against Sir *John Fagg*, a Member of their House, to which he is order'd to answer; they therefore desired their Lordships to have regard to their Privileges.

Which Message being consider'd, the Question was put, Whether this Answer shall be now return'd to the said Message, viz. *That the House of Commons need not doubt but their Lordships will have a Regard to the Privileges of the House of Commons, as they have of their own?*

It was resolv'd in the Affirmative.

Memorandum, That before the putting of the aforesaid Question, these Lords following desired Leave to enter their Dissents, if the Question was carried in the Affirmative, and accordingly they do enter their Dissents.

Because the Answer voted to be sent to the House of Commons, being the same, was sent down formerly in the Case of *Hale* and *Slingby*, hath, as we, with all Humility, do apprehend, been already mistaken by them, as a Condescension of this House to forbear proceeding in Judicature

in Affairs of this Nature, and appears to us very liable to so Anno 26, Car.
 great a Misconstruction, that it may seem, in some measure, II. 1675.
 to acknowledge that the House of Commons have a Claim
 to some Privilege in Judicature, which is a Thing that, we
 conceive, belongs solely to this House.

*Bedford, T. Culpeper, Howard, Earl of Berks, Newport,
 Bristol, Dorset, Basil Denbigh, J. Bridgewater, Shaftsbury.*

Die Lunæ 10^o Maii, 1675.

Post Meridiem. The House having heard the Council of The Case of
Dacre Barret, Plaintiff, and also the Council of the Lord Barret and Lord
Viscount Loftus, Defendant, upon an Appeal, desiring that Viscount Loftus.
 a Decree made in Parliament the 3d of May, 1642, on
 Behalf of the said Viscount, may be reversed; and after
 long Debate and Consideration thereof

The Question was put, Whether this Decree shall be
 affirmed?

It was resolved in the Negative.

We, whose Names are under-written, having, before the Protest thereon,
 putting of the said Question, desired Leave of the House to
 enter our Protestation, if the same were carried in the Ne-
 gative, do accordingly enter our Dissent and Protestation
 for the Reasons following;

1st, Because this Resolution retains a Complaint, which,
 upon weighty Grounds, appearing, in the Judgment of Par-
 liament, and in the Pleadings in this Cause, as we humbly
 conceive, ought to be dismissed.

2^{dly}, It is a very dangerous Precedent, and may be of ill
 Consequence to the Judicature of this High Court, if not
 destructive thereunto, after above three and thirty Years, to
 shake a Judgment made against an extra judicial Decree of
 the Council-board in *Ireland*, grounded on a certain parole
 Agreement, pretended to be made four and fifty Years ago,
 and built upon a single Testimony, various in itself, for
 Manors and Lands of Inheritance, of a great yearly Value,
 and wholly destructive to the Family of a Viscount of that
 Kingdom; and all this after the said Judgment fully exe-
 cuted, after Settlement of Marriage, for great and valuable
 Considerations, made upon the Heirs Male of the Family,
 Support of the Honour to them descendable, and divers
 Leases and Contracts touching several Parts of the Estate,
 and a great Portion of the Sister paid, chargeable on the
 Premises, and great Debts of the Lord Chancellor *Loftus*;
 and Part thereof sold, and other Part mortgaged; all which
 Transactions have been founded upon the said Judgment in
 Parliament, and the said Estate quietly enjoyed under it
 ever since.

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3^{dly}.

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3dly, Because it seems to us unreasonable, and very insecure for the Subject, that such a Judgment, upon the last Resort, vacating a Decree, vicious both in Form and Matter, and making a full Settlement between the Parties, should, after most of the Witnesses being dead, and after those under whom the now Complainant claims, making their Submission thereunto, and taking Benefit by the Execution thereof, and receiving some thousands of Pounds thereupon, be drawn into Question, and the Merits of the Cause re-heard, much less that new Matters should be admitted in a Clause so concluded.

4thly, We conceive the Plea of the Lord Loftus, upon the Matters ascribed, to be good and valid in the Law.

5thly, That to admit a Rehearsing can only tend to impoverish the Parties, and increase Divisions between near Relations, which the Honour and Wisdom of this high Court ever endeavours to prevent.

Anglesey, W. Wiadrington, Shaftsbury, Vaughan Carbery, Carlisle, Basil Denbigh.

Die Jovis 27^o Maii, 1675.

Conference desired by the Commons in the Case of Mr. Onslow.

A Message was brought from the House of Commons, by Sir Thomas Lee and others, to this Effect; *That the House of Commons heretofore did desire a Conference touching their Privileges, in the Case of Mr. Onslow; and their Lordships returned Answer, That their Lordships would send an Answer by Messengers of their own. The House of Commons took upon this as a Case of great Consequence to the Privileges of their House; and therefore now desire a Conference concerning the Privileges of their House, in the Case of Mr. Onslow.*

The Lords entered into a serious Debate of this Message, and a Paper was offered to the House as an Answer to be returned to this Message. The said Paper was read as follows:

The Lords have considered of their Message, and shall be ever ready to grant the House of Commons a Conference in any thing which may concern the Privileges of their House; but they find that the Desire of this Conference is upon the same ground with the former Message of the 21st Instant, which was upon the Answer sent by the Lords in the Case of Mr. Onslow of the 17th Instant, wherein the whole Case concerns the Judicature of the Lords, on which they can admit of no Debate, nor grant any Conference.

The Question being put, Whether the Answer which shall be returned to this Message from the House of Commons shall be the Substance contained in this Paper?

It was resolved in the Negative.

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Memorandum, Before the putting of the abovesaid Question, these Lords following desired Leave to enter their Dissents, if the Question was carried in the Negative; which accordingly they did. Anno 26, Car. II. 1675.

Because they do humbly conceive this Question, being carried in the Negative, deprives this House of the Advantage of making Use of that Answer to the House of Commons, which would have been the surest way to have justified and preserved the Right of the Lords in Judicature upon this Occasion. Protest thereon.

Grey de Rolleston, J. Bridgewater, Stamford, Mobun.

This Session lasted near two Months, but produced not one public Bill.



[Between the Sessions, the King seeing the Negotiations of the general Peace for a Time laid asleep, sent for Sir William Temple to take a short Turn into England, and give him an Account of all the Observations he had made Abroad, in the present Conjectures and Dispositions, as well as receive his Majesty's Instructions, for the future Progress of his Mediation. Upon his Arrival, soon after the Prorogation of the Parliament, his Majesty discovering to him the several Reasons that had moved him to it, said, *That he doubted much while the War lasted Abroad, it would give Occasion or Pretence for those Heats that had of late appeared in the Parliament, and make him very uneasy in his Revenue, which so much needed their Assistance: That some of the warm Leaders in both Houses had a Mind to engage him in a War with France, which they should not do for many Reasons; and, among the rest, because he was sure if they did, they would leave him in it, and make Use of it to ruin his Ministers, and make him depend upon them more than he intended, or any King would desire. But besides all this, he doubted an impertinent Quarrel between the Lord Treasurer and Lord Chamberlain did him more Disservice in the Parliament than he could imagine: For the last did not care what Harm he did his Business there, so he hoped to ruin the Lord-Treasurer; and had persuaded a great many in the House of Commons, that this would certainly be compassed, if they were stanch, in giving no Money during his Ministry. That Sir William knew they were both his Friends, and he desired he would reconcile them while he stayed in England. Sir William endeavoured it, but failed: The Earl of Danby was very inclinable, being so posted as to desire only to continue where he was; but the Lord Arlington* Conference between the King and Sir William Temple on reconciling the Lords Danby and Arlington.

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was so uneasy at his present Condition, which he chiefly attributed to the Treasurer's Greatness, that he was unmanageable upon that Subject. So that when Sir *William* found the Wound too much rankled to be cured, he desisted; telling each of them, *That since he could not make them Friends, he would however live with them both, as if they were so; and desired them not to expect he should sacrifice one Friend to another.* The Treasurer was contented with this Frankness; but the Earl of *Arlington* could not bear this neither, but grew dry and stiff in all that passed between them two; often mingling little Reproaches of Sir *William's* Greatness with the Treasurer, and grew so weary of the Scene at Court, where he found himself left out, that he retired into the Country for the rest of the Summer.]



The FIFTEENTH SESSION of the Second Parliament

WAS open'd *October* the 13th, 1675, when the King and Lord-Keeper made each of them a Speech as usual; which are to be found in *CHANDLER'S Hist. Anno 27, Car. II. 1675, Page 235, 236, 237.*

About this Time the unusual Activity of the Papists, and the Discoveries which had been made by *Coleman's Letters*, gave the Hint to both Houses to be more moderate in their Proceedings with respect to Protestant Dissenters.

In that of the Lords, especially, the Duke of *Buckingham* thus express'd himself in favour of a Toleration:

My Lords,

Duke of Buckingham's Speech for a Toleration.

‘ There is a Thing called Liberty, which (whatsoever some Men may think) is, that the People of *England* are fondest of; it is that they will never part with; and is that his Majesty in his Speech has promised us to take a particular Care of. This, *my Lords*, in my Opinion, can never be done without giving an Indulgence to all Protestant Dissenters. It is certainly a very uneasy kind of Life to any Man, that has either Christian Charity, Humanity, or Good-Nature, to see his Fellow-Subjects daily abused, divested of their Liberties and Birth-Rights, and miserably thrown out of their Possessions and Freeholds, only because they cannot agree with others in some Opinions and Niceties of Religion, which their Consciences will not give them leave to consent to; and which, even by the Confession of those who would impose upon them, are no ways necessary to Salvation. But, *my Lords*, besides this,

this, and all that may be said upon it, in order to the Improvement of our Trade, and Increase of the Wealth, Strength, and Greatness of this Nation, (which, with your Leave, I shall presume to discourse of some other Time) there is, methinks, in this Notion of Persecution a very gross Mistake, both as to the Point of Government, and the Point of Religion. There is so as to the Point of Government, because it makes every Man's Safety depend on the wrong Place; not upon Governors, or Man's living well towards the Civil Government established by Law, but upon his being transported with Zeal for every Opinion that is held by those that have Power in the Church that is in fashion; and I conceive it is a Mistake in Religion, because it is positively against the express Doctrine and Example of *Jesus Christ*. Nay, my Lords, as to our Protestant Religion, there is something in it yet worse; for we Protestants maintain, that none of those Opinions, which Christians differ about, are infallible; and therefore it is in us somewhat an inexcusable Conception, that Men ought to be deprived of their Inheritance, and all the certain Conveniences and Advantages of Life, because they will not agree with us in our uncertain Opinions of Religion. My humble Motion therefore to your Lordships, is, that you would give Leave to bring in a Bill of Indulgence to all Protestant Dissenters. I know very well that every Peer of this Realm hath a Right to bring into Parliament any Bill he conceives to be useful to this Nation: But I thought it more respectful to your Lordships to ask your Leave before; but I cannot think the doing of it will be any Prejudice to the Bill, because I am confident the Reason, the Prudence, and the Charitableness of it, will be able to justify it to this House, and the whole World.

Accordingly the House gave his Grace Leave to bring in a Bill to that Purpose.

But this, and several other Bills depending, were totally interrupted and lost by the Revival of the Contest between the two Houses, concerning Dr. *Shirley* and Sir *John Fagg*; the Particulars of which see in *CHANDLER'S Hist. Anno 27 Car. II. 1675, Page 241, 242*, where the Proceedings of the Commons on this Occasion had thrown the Lords into a Flame, and upon the Debate of appointing a Day for the hearing Dr. *Shirley's* Cause, the 20th of October, among many other warm Speeches, the Earl of *Shaftsbury* express'd himself as follows:

Dispute between the two Houses on Dr. Shirley's Appeal renew'd.

My Lords,

Our All is at Stake, and therefore you must give me Lord Shaftsbury's Speech. Bishop of *Salisbury* is of Opinion, That we should rather appoint

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point a Day to consider what to do upon the Petition, than to appoint a Day of hearing ; and my Lord-Keeper, for I may name them at a Committee of the whole House, tells us in very eloquent and studied Language, That he will propose us a Way, far less liable to Exception, and much less offensive and injurious to our own Privileges, than that of appointing a Day of hearing. And I beseech your Lordships, did you not, after all these fine Words, expect some admirable Proposal ? But it ended in this, That your Lordships should appoint a Day, nay, a very long Day, to consider what you would do in it : And my Lord hath undertaken to convince you, that this is your only Course by several undeniable Reasons ; the first of which is, That it is against your Judicature to have this Cause, which is not proper, before us, nor ought to be relieved by us. To this, my Lords, give me Leave to answer, that I did not expect from a Man professing the Law, that after an Answer by Order of the Court was put in, and a Day had been appointed for hearing, which by some Accident was set aside ; and the Plaintiff moving for a second Day to be assigned, that ever, without hearing Council on both Sides, the Court did enter into the Merits of the Cause. And if your Lordships should do it here, in a Case attended with the Circumstances this is, it would not only be an apparent Injustice, but a plain Subterfuge, to avoid a Point you durst not maintain.

* But my Lord's second Reason speaks the Matter more clearly ; for that is, *Because 'tis a doubtful Case, whether the Commons have not Privilege, and therefore my Lord would have you to appoint a farther, and very long Day to consider of it : Which in plain English is, that you conceive it on second Thoughts a doubtful Case ; for so your appointing a Day to consider will do ; and that for no other Reason, but because my Lord-Keeper thinks it so ; which, I hope, will not be a Reason to prevail with your Lordships ; since we cannot yet, by Experience, tell that his Lordship is capable of thinking your Lordships in the right, in any manner against the Judgment of the House of Commons ; 'tis so hard a Thing, even for the ablest of Men, to change ill Habits.*

* But my Lord's third Reason is the most admirable of all, which he styles unanswerable ; viz. *That your Lordships are all convinced in your own Consciences, that this (if prosecuted) will cause a Breach. I beseech your Lordships, consider whether this Argument, thus applied, would not overthrow the Law of Nature, and all the Laws of Property and Right in the World : For 'tis an Argument, and a very good one, that you should not stand or insist on Claims, where you have not a clear Right, or where the Question is not of*
Con-

Consequence and Moment, in a Matter that may produce a dangerous and pernicious Breach between Relations, Persons, or Bodies politic, joined in Interest and high Concerns together. So, on the other hand, if the Obstinacy of the Party in the wrong shall be made an unanswerable Argument for the other Party to recede, and give up his just Rights, how long shall the People keep their Liberties, or the Princes or Governors of the World their Prerogatives? How long shall the Husband maintain his Dominion, or any Man his Property, from his Friends or his Neighbours Obstinacy? But, my Lords, when I hear my Lord-Keeper open so eloquently the fatal Consequences of a Breach, I cannot forbear to fall into some Admiration how it comes to pass, that (if the Consequences be so fatal) the King's Ministers in the House of Commons, of which there are several that are of the Cabinet, and have daily Resort to his Majesty, and have the Direction and Trust of his Affairs; I say, that none of these should press these Consequences there, or give the least Stop to the Career of that House in this Business; but that all the Votes concerning this Affair, nay, even that very Vote, *That no Appeal from any Court of Equity is cognizable by the House of Lords*, should pass *nemine contradicente*. And yet all the great Ministers with us here, the Bishops and other Lords of greatest Dependence on the Court, contend this Point, as if it were *pro aris & focis*. I hear his Majesty in Scotland hath been pleased to declare against Appeals in Parliament; I cannot much blame the Court, if they think (the Lord-Keeper and the Judges being of the King's naming, and in his Power to change) that the Justice of the Nation is safe enough; and I, *my Lords*, may think so too, during this King's Time, though I hear Scotland, not without Reason, complains already. Yet how future Princes may use this Power, and how Judges may be made not out of Men of Ability or Integrity, but Men of Relation and Dependence, and who will do what they are commanded; and all Men's Causes come to be judged, and Estates disposed on, as great Men at Court please.

My Lords, the Constitution of our Government hath provided better for us; and I can never believe so wise a Body as the House of Commons will prove that foolish Woman, who plucks down her House with her Hands.

My Lords, I must presume in the next place to say something to what was offered by my Lord Bishop of Salisbury, a Man of great Learning and Abilities, and always versed in a stronger and closer way of Reasoning, than the Business of that noble Lord I answered before did accustom him to; and that Reverend Prelate had stated the Matter very fair upon two Heads.

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The first, *Whether the Hearing of Causes and Appeals, and especially in this Point where the Members have Privilege, be so material to us, that it ought not to give way to the Reason of State, of greater Affairs that pressed us at that Time?*

The second was, *If this Business be of that Moment, yet whether the appointing a Day to consider of this Petition would prove of that Consequence and Prejudice to your Cause?*

‘ My Lords, to these give me Leave in the first place to say, that this Matter is no less than your whole Judicature ; and your Judicature is the Life and Soul of the Dignity of the Peerage in England ; you will quickly grow burdensome, if you grow useless : You have now the greatest and most useful End of Parliaments principally in you, which is not to make new Laws, but to redress Grievances, and to maintain the old Land marks. The House of Commons Business is to complain, your Lordships to redress, not only the Complaints from them, that are the Eyes of the Nation, but all other particular Persons that address to you. A Land may groan under a Multitude of Laws, and I believe ours does ; and when Laws grow so multiplied, they prove oftener Snares than Directions and Security to the People. I look upon it as the Ignorance and Weakness of the latter Age, if not worse, the Effect of the Designs of ill Men, that it is grown a general Opinion, that where there is not a particular Direction in some Act of Parliament, the Law is defective ; as if the Common Law had not provided much better, shorter, and plainer for the Peace and Quiet of the Nation, than intricate, long, perplexed Statutes do ; which has made Work for the Lawyers, given Power to the Judges, lessened your Lordship’s Power, and in a good measure unhinged the Security of the People.

‘ My Lord Bishop tells us, *That your whole Judicature is not in Question, but only the Privilege of the House of Commons, of their Members not appearing at your Bar :* My Lords, were it no more, yet that, for Justice and the People’s Sake, you ought not to part with : How far a Privilege of the House of Commons, their Servants, and those they own, doth extend, *Westminster-Hall* may with Grief tell your Lordships. And the same Privilege of their Members being not sued, must be allowed by your Lordships as well ; and what a Failure of Justice this would prove, whilst they are Lords for Life, and you for Inheritance, let the World judge : For my Part, I am willing to come to a Conference, whenever the Dispute shall begin again ; and dare undertake to your Lordships, that they have neither Precedent, Reason, nor any justifiable Pretence to shew against us ; and therefore, my Lords, if you part with this undoubted Right merely for asking,

asking, where will the asking stop? And, my Lords, we are sure it doth not stop here, for they have already, *nemine contradicente*, voted against your Lordships Power of Appeals from any Court of Equity: So that you may plainly see where this Caution and Reason of State means to stop; not one jot short of laying your whole Judicature aside; for the same Reason of passing the King's Money, of not interrupting good Laws, and whatever else, must of Necessity avoid all Breach upon what score soever: Thus your Lordships plainly see the Breach will be as well made upon your Judicature in general, as upon this; so that when your Lordships have appointed a Day, a very long Day, for to consider whether Dr. *Shirley's* Cause be not too hot to handle; and when you have done the same for Sir *Nicholas Stanton*, whose Petition I hear is coming in, your Lordships must proceed to a Vote, to lay all private Business aside for six Weeks; for that Phrase of private Business hath obtained upon this last Age, upon that which is your most public Duty and Business, namely, the Administration of Justice. And I can tell your Lordships, besides the Reason that leads to it, that I have some Intelligence of the designing such a Vote; for on the second Day of your sitting, at the rising of the Lords House, there came a Gentleman into the Lobby, belonging to a very great Person, and asked in very great Haste, *Are the Lords up? Have they passed the Vote?* And being asked, *What Vote?* He answered, *The Vote of no private Business for six Weeks.*

‘ My Lords, if this be your Business, see where you are; if we are to postpone our Judicature, for fear of offending the House of Commons, for six Weeks, that they, in the Interim, may pass the Money, and other acceptable Bills that his Majesty thinks of Importance. Are so many wise Men in the House of Commons to be laid asleep, and to pass all these acceptable Things; and when they have done, to let us be let loose upon them?

‘ Will they not remember this, next time there is want of Money? Or may not they rather be assured by those Ministers that are amongst them, and go on so unanimously with them, that the King is on their Side in this Controversy? And when the public Businesses are over, our Time will be too short to make a Breach, or vindicate ourselves in the Matter. And then I beg your Lordships, where are you, if after you have asserted but the last Session your Right of Judicature, so highly, even in this Point; and after the House of Commons had gone so high against you on the other hand, as to post up their Declaration and Remonstrances on *Westminster-Hall* Doors; the very next Session after you postpone the very same Causes; and not only those,

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but all Judicatures whatsoever? I beseech your Lordships, will not this prove a fatal Precedent and Confession against yourselves? It is a Maxim. and a rational one amongst the Lawyers, *That one Precedent where the Case hath been contested, is worth a Thousand where there hath been no Contest.* My Lords, in saying this, I humbly suppose I have given a sufficient Answer to my Lord Bishop's second Question; *Whether the appointing a Day to consider what you will do with this Petition, be of that Consequence to your Right?* For it is a plain Confession, that it is a doubtful Case, and that infinitely stronger than if it were a new thing to you, never heard of before; for it is the very same Case, and the very same Thing desired in that Case, that you formerly ordered, and so strongly asserted; so that, upon Time, and all the Deliberation imaginable, you declare yourselves to become doubtful, and you put yourselves out of your own Hands, into that Power that you have no Reason to believe on your Side in this Question.

My Lords, I have all the Duty imaginable to his Majesty, and shall, with all Submission, give way to any thing he should think of Importance to his Affairs: But in this Point, it is, to alter the Constitution of the Government, if you are asked to lay this aside; and there is no Reason of State can be an Argument to your Lordships to turn yourselves out of that Interest you have in the Constitution of the Government; it is not only your Concern that you maintain yourselves in it, but it is the Concern of the poorest Man in *England*, that you keep your Station; it is your Lordships Concern, and that so highly, that I will be bold to say, the King can give none of you a Requital or Recompence for it. What are empty Titles? What is present Power, or Riches, and a great Estate, wherein I have no firm or fixed Property? It is the Constitution of the Government, and maintaining it, that secures your Lordships and every Man else in what he hath; the poorest Lord, if Birthright of the Peerage be maintained, has a fair Prospect before him for himself or his Posterity; but the greatest Title, with the greatest present Power and Riches, is but a mean Creature, and maintains those in absolute Monarchies no otherwise than by servile and low Flatteries, and upon uncertain Terms.

My Lords, it is not only your Interest, but the Interest of the Nation, that you maintain your Rights; for let the House of Commons and Gentry of *England* think what they please, there is no Prince that ever governed without Nobility or an Army; if you will not have one, you must have the other, or the Monarchy cannot long support, or keep itself from tumbling into a democratical Republic. Your Lordships and the People have the same Cause, and the same

same Enemies. My Lords, would you be in Favour with the King? It is a very ill way to it, to put yourselves out of a future Capacity, to be considerable in his Service: I do not find in Story, or in modern Experience, but that it is better, and a Man is much more regarded, that is still in a Capacity and Opportunity to serve, than he that hath wholly deprived himself of all for his Prince's Service. And I therefore declare, that I will serve my Prince as a Peer, but will not destroy the Peerage to serve him.

My Lords, I have heard of twenty foolish Models and Expedients to secure the Justice of the Nation, and yet to take this Right from your Lordships, as the King by his Commission appointing Commoners to hear Appeals; or that the twelve Judges should be the Persons, or that Persons should be appointed by Act of Parliament, which are all not only to take away your Lordships just Right, that ought not to be altered any more than any other Part of the Government, but are in themselves, when well weighed, ridiculous: I must deal freely with your Lordships, these Things could never have risen in Men's Minds, but that there has been some kind of Provocation that has given the first Rise to it. Pray, my Lords, forgive me, if on this Occasion I put you in Mind of Committee-Dinners, and the Scandal of it, those Drones of Ladies that attended all Causes; it was come to that pass, that Men even hired, or borrowed of their Friends, handsome Sisters or Daughters to deliver their Petitions: But yet for all this, I must say, that your Judgments have been sacred unless in one or two Causes; and those we owe most to that Bench from whence we now apprehend the most Danger.

There is one Thing I had almost forgot to speak to, *which is the Conjecture of Time, the Hinge upon which our Reason of State turns*; and to that, my Lords, give me Leave to say, if this be not a Time of Leisure for you to vindicate your Privileges, you must never expect one. I could almost say, that the Harmony, good Agreement, and Accord that is to be prayed for at most other Times, may be fatal to us now; we owe the Peace of these last two Years, and the Disengagement from the *French* Interest, to the two Houses differing from the Sense and Opinion of *Whitehall*, so at this Time the Thing in the World this Nation hath most Reason to apprehend is a general Peace, which cannot now happen without very advantageous Terms to the *French*, and disadvantageous to the House of *Austria*. We are the King's great Counsellors, and if so, have Right to differ, and give contrary Counsels to those few that are nearest about him: I, fear they would advance a general Peace, I am sure I would advise against it, and hinder it at this Time by all

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the Ways imaginable. I heartily wish, nothing from you may add Weight and Reputation to those Councils, which would assist the *French*. No Money for Ships, nor Preparations you can make, nor personal Assurances our Prince can have, can secure us from the *French*, if they are at Leisure. He is grown the most potent of us all at Sea: He has built 24 Ships this last Year, and has 30 more in Number than we; besides the Advantage, that our Ships are all out of Order, and his so exquisitely provided for, that every Ship has its particular Store-house. It is incredible the Money he hath, and is bestowing in making Harbours; he makes Nature itself give Way to the Vastness of his Expence; and, after all this, shall a Prince so wise, so intent upon his Affairs, be thought to make all these Preparations to sail over Land, and fall on the Back of *Hungary*, and batter the Walls of *Kaminitz*? Or is it possible he should oversee his Interest in seizing of *Ireland*, a Thing so feasible to him, if he be Master of the Seas, as he certainly now is; and which, when attained, gives him all the *Southern, Mediterranean, East and West India Trade*, and renders him, both by Situation, and excellent Harbours, perpetual Master of the Seas, without Dispute?

‘My Lords, to conclude this Point, I fear the Court of *England* is greatly mistaken in it, and I do not wish them the Reputation of the Concurrence of the Kingdom; and this out of the most sincere Loyalty to his Majesty, and Love to my Nation.

‘My Lords, I have but one Thing more to trouble you with, and that, peradventure, is a Consideration of the greatest Weight and Concern, both to your Lordships, and the whole Nation. I have often seen in this House, that the Arguments with strongest Reason, and most convincing to the Lay-Lords in general, have not had the same Effect upon the Bishop’s-Bench; but that they have unanimously gone against us in Matters, that many of us have thought essential and undoubted Rights: And I consider, that ’tis not possible, that Men of great Learning, Piety, and Reason, as their Lordships are, should not have the same Care of doing right, and the same Conviction of what is right, upon clear Reason offered, that other your Lordships have. And therefore, my Lords, I must necessarily think we differ in Principles, and then ’tis very easy to apprehend, what is the clearest Sense to Men of my Principles, may not at all persuade or affect the Conscience of the best Men of a different one. I put your Lordships the Case plainly as ’tis now before us. My Principle is, *That the King is King by Law, and by the same Law that the poor Man enjoys his Cottage*; and so it becomes the Concern of every Man in *England*,

land, that has but his Liberty, to maintain and defend, to Anno 27, Car.
his utmost, the King in all his Rights and Prerogatives. II. 1675.

My Principle is also, *That the Lords House, and the Judicature and Rights belonging to it, are an essential Part of the Government, and established by the same Law*: The King governing and administering Justice by his House of Lords, and advising with both his Houses of Parliament in all important Matters, is the Government I own, am born under, and am obliged to. If ever there should happen in future Ages (which, God forbid) a King governing by an Army, without his Parliament, 'tis a Government I own not, am not obliged to, nor was born under. According to this Principle, every honest Man that holds it, must endeavour equally to preserve the Frame of the Government, in all the Parts of it, and cannot satisfy his Conscience to give up the Lords House for the Service of the Crown, or to take away the just Rights and Privileges of the House of Commons, to please the Lords. But there is another Principle got into the World, my Lords, that hath not been long there; for Archbishop Laud was the first Author that I remember of it; and I cannot find that the Jesuits, or indeed the Popish Clergy have ever owned it, but some of the episcopal Clergy of our British Isles; and withal, as 'tis new, so 'tis the most dangerous, destructive Doctrine to our Government and Law, that ever was. 'Tis the first of the Canons published by the Convocation, 1640, *That Monarchy is of divine Right*. This Doctrine was then preached up, and maintained by Sibthorp, Marwarling, and others, and of later Years, by a Book published by Dr. Sanderfon, Bishop of Lincoln, under the Name of Archbishop Usher; and how much it is spread amongst our dignified Clergy, is very easily known. We all agree, that the King and his Government is to be obeyed for Conscience sake; and that the divine Precepts require, not only here, but in all Parts of the World, Obedience to lawful Governors. But that this Family are our Kings, and this particular Frame of Government is our lawful Constitution, and obliges us, is owing only to the particular Laws of our Country. This *Laudian* Doctrine was the Root that produced the Bill of Test, last Session; and some very perplexed Oaths, that are of the same Nature with that, and yet imposed by several Acts this Parliament.

In a word, if this Doctrine be true, our *Magna Charta* is of no use, our Laws are but Rules amongst ourselves during the King's Pleasure. Monarchy, if of Divine Right, cannot be bounded or limited by human Laws; nay, what's more, cannot bind itself: And all our Claims of Right by the Law, or Constitution of the Government, all the Jurisdiction and Privilege

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Privilege of this House, all the Rights and Privileges of the House of Commons, all the Properties and Liberties of the People, are to give way not only to the Interest, but the Will and Pleasure of the Crown. And the best and worthiest of Men, holding this Principle, must vote to deliver up all we have, not only when Reasons of State and the separate Interest of the Crown require it, but when the Will and Pleasure of the King is known, and would have it so. For that must be, to a Man of that Principle, the only Rule and Measure of Right and Justice. Therefore, my Lords, you see how necessary it is, that all our Principles be known; and how fatal to us all it is, that this Principle should be suffer'd to spread any farther.

My Lords, to conclude, your Lordships have seen of what Consequence this Matter is to you, and that the appointing a Day to consider, is no less than declaring yourselves doubtful, upon second and deliberate Thoughts, that you put yourselves out of your own Hands, into more than a moral Probability of having this Session made a Precedent against you. You see your Duty to yourselves and the People; and that it is really not the Interest of the House of Commons, but may be the Inclination of the Court, that you lose the Power of Appeals: but I beg our House may not be *felo de se*, but that your Lordships would take in this Affair, the only Course to preserve yourselves, and appoint a Day, this Day three Weeks, for the hearing Dr. Shirley's Cause, which is my humble Motion.

The Debate being over, and the House being resumed, the Question was put, Whether the 20th Day of this Instant *November* shall be the Day appointed for the hearing of the Cause between Dr. Thomas Shirley and Sir John Fagg?

It was resolved in the Affirmative.

Protest on the
appointing a Day
of Hearing for
the Cause of
Shirley and
Fagg.

Before the putting the said Question, Leave being demanded and given to such Lords as thought fit (if the same were carried in the Affirmative) to enter their Protestation and Dissent; accordingly this Protestation is enter'd against the said Vote, for the Reasons following:

1st, Because it seems contrary to the Use and Practice of this High Court (which gives Example to all other Courts) upon a bare Petition of the Plaintiff Dr. Shirley, in a Cause depending last Session, and discontinued by Prorogation, to appoint a Day for hearing of the Cause before the Defendant is so much as summon'd, or appears in Court, or to be alive.

2^{dly}, The Defendant, by the Rules of this Court, having Liberty upon Summons to make a new Answer, as Sir Jeremy Whitcomb was admitted, after Summons, to do last Session in Darrell's Cause against him, discontinued by Prorogation,

tion, or to mend his Answer, or to plead, as he shall see Cause, is deprived of this and other Benefits of Law, by appointing a Day of Hearing without these essential Forms.

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3dly, It appears, by the Plaintiff's own shewing in his Petition, that his Case against a Purchaser is not relievable in Equity; and therefore ought to be dismiss'd without putting the Parties to a further Charge.

4thly, It appears, by his own shewing, and the Defendant Sir John Ragg's Plea, that he comes hither *per saltum*, and ought to attend Judgment in the inferior Courts, if his Case is relievable, and not to appeal to the highest Court, till either Injustice is done him below, or erroneous Judgment given against him, and Relief denied him upon Review.

5thly, The Danger of this Precedent is so universal, that it shakes all the Purchasers of England.

Anglesea,

On Saturday, November the 20th, 1675, Dr. Thomas Shirley appeared at the Bar of the House of Lords, and his Council Mr. Wallop, appearing, who would have excused himself: but was ordered to appear again on Monday Morning next to plead the Cause; and the other two Council (one being in the Country, and the other sick) were excused: And the said Dr. Shirley, Sir Nicholas Stanton, and Mr. Wallop, were ordered to have the Protection of the House: And upon Debate of the Commons Vote made yesterday,

Ordered, That the Paper posted up in several Places, sign'd by William Goldbro, Cler. Dom. Com. against the Judicature of the House of Peers, in Cases of Appeals from Courts of Equity, is illegal, unparliamentary, and tending to the Dissolution of the Government. And then upon Consideration of the said Vote of the Commons, it was proposed by Lord Mobun, to make an Address to his Majesty to dissolve the Parliament, and call another, and frequent Parliaments; upon which ensued the following Debate:

That it is according to the Constitution of the Government, the antient Laws and Statutes of this Realm, that these should be frequent and new Parliaments; and the Practice of all Ages, till this last, hath been accordingly: Parliaments, both long before, and after the Conquest, were held three times a Year; viz. Easter, Whitsontide, and Christmas, during the Space of eight Days for each time; and so continued, with some Variation, as to times of calling, and length of holding; but always very short, until the Reign of Edward III. in the fourth Year of whose Reign there was a Law made, That Parliaments should be holden every Year once, or more often: And how this is to be understood, whether of a new Parliament every Year, or calling

Debate on a Motion for an Address to the King to dissolve the Parliament.

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calling the old, is most manifest, by the Practice, not only of all the Ages before, but of some hundreds of Years since that Law ; Prorogations, or long Adjournments, being a Thing never heard of until later Years.

And it is most unreasonable that any particular Number of Men should for many Years engross so great a Trust of the People, as to be their Representatives in the House of Commons ; and that all other the Gentry, and the Members of Corporations, of the same Degree and Quality with them, should be so long excluded. Neither is it agreeable with the Nature of Representatives to be continued for so long a Time, and those that chuse them, not to be allowed frequent Opportunity of changing the Hands in which they are obliged to put so great a Trust ; the mutual Correspondence and Interests of those who chuse and are chosen, admitting of great Variations in length of Time : How many in this present House of Commons are there, whose Business and Acquaintance has not given them the Occasion of the Correspondence of one Letter (for these many Years) with any Person of those Places for whom they serve ? How many may there be in future Parliaments, if continued as long as this, that may be Protestants when they are chosen, and yet may come, in so many Years, justly to be suspected to have changed their Religion ? Nay, how many in this present Parliament are there who were chosen by the People when they were of the same adequate Interest with them, and in length of Time, by the Favour and Goodness of the Prince, and their own great Merits, are become Officers about the Court, and in the Revenue : This is not spoken to reflect on them, for many of them have behaved themselves very worthily of those Places ; but yet themselves cannot say, that they are equally as free to act for those that chose them, as they were before : Nor are they of the same Interest as when they were chosen ; for now they gain and have the Advantage by the People's Payments : And if they should say, they are the same Men they were, we may call their Fellow Members that have sat with them to witness, whether the Proverb be not true, that *Honores mutant Mores* ; whether they have the same Opinion and the same Freedom they had before. Nay, may it not be said without Offence, that even in this House of Commons there are not a few, who when they were chosen were looked upon as Men of Estates, and are either since grown, or discover'd to be of that indigent Condition, that they are much fitter to receive the Public Maintenance, than give the Public Money ? And it may be charitably supposed, that those Gentlemen are so modest as to be willing to lay down, if they could, the Public Trust. But 'tis most certain, that those Places they serve for, would not be

be willing to continue them in it. There is no Question, Anno 27, Car. II. 1675. but 'tis the King's undisputed Prerogative to call and end Parliaments when he pleases; and no Man, or Number of Men, can limit him a Time; but the greatest Prince cannot avoid the being limited by the Nature of Things: Representatives of the People are necessary to the making Laws, and there is a Time when it is morally demonstrable, that Men cease to be Representatives, there being Circumstances and Properties that distinguish every Thing, as well as Person, in the World. So that, to conclude this Head, we owe the Prince the Observance of his Time and Place, both for Calling, and Duration of Parliaments; and the Prince owes us, not only the Frequencies of Parliaments, but that our Representation should be preserved to us in them.

And farther, if you consider the Constitution of our Government, where the King, as Head (from whom all the vital and animal Spirits are diffused through the Body) has the Care of all, whose Interest is to seek the Welfare of the whole, all being his; the Strength of the Nation being his Strength, their Riches his Riches, their Glory and Honour his Glory and Honour; and so on the contrary: But, lest Passion, Mistake, Flattery, or the ill Designs of those about the Prince, should make him to go cross to his real, and follow a destructive, imaginary Interest; there is an Estate of hereditary Nobility, who are by Birth-right the Counsellors of the Kingdom, and whose Interest and Business is to keep the Balance of the Government steady, that the Favourites and great Officers exceed not their Bounds, and oppress the People, that Justice be duly administered, and that all Parts of the Government be preserved entire; yet even these may grow insolent (a Disease Greatness is liable to) or may by Offices, Dependencies, Hopes of Preferment, and other Accidents, become, as to the major Part of them, rather the obsequious Flatterers of the Court, than true Supporters of the Public and *English* Interest; and therefore the Excellency of our Government affords us another Estate of Men, which are the Representatives of the Freeholders, Cities, principal Boroughs, and Corporations of *England*; who, by the old Law, were to be new chosen once a Year, if not oftner, so that they perfectly gave the Sense of those that chose them, and were the same Thing as if those were present that chose, they so newly coming from them, and so quickly returning to give an Account of their Fidelity, under the Penalty of Shame, and no farther Trust.

Thus you have, in the *English* Government, the House of Commons affording the Sense, the Mind, the Information, the Complaints, the Grievances, and the Desires of all those

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People for whom they serve, throughout the whole Nation. The People are thus secure; no Laws can be made, nor Money given, but what themselves, tho' at home, fully consent and agree to. The second Estate in this Government, is the Lords, who are the Council, the Wisdom and Judgment of the Nation, to which their Birth, Education, and constant Employment, being the same in every Parliament, prepares and fits them. The last and supreme of all is the King; one, who gives Life and Vigour to the Proceedings of the other two; the Will and Desires of the People, tho' approved by the Wisdom and Judgment of the Lords, are abortive, unless he binds them by an Act.

Human Reason can hardly conceive a more excellent Government: But if you will alter this Government in any of the three Parts of it, the Disorders and Inconveniencies, incident to the Nature of such Alteration, must necessarily follow: As for Instance, the long Continuance of any such as are entrusted for others, especially of such as have so great a Power over the Purse of the Nation, must necessarily produce Cabals and Parties, and the carrying on of private Interests and Court-Factions, rather than the Public Good, or the true Interest, either of the King or Kingdom. How vastly is the Privilege of a Parliamentman increased since the Middle of the Reign of *Henry VIII*? Before it was several times agreed by all the Judges, and observed as the Law, That a Member and his Servants were exempted only from Arrests and Outlawries, but might be impeached, sued, and attached by his Lands and Goods; yet now they must not be sued in any Case, nor dispossessed of any Thing, during the Time of Privilege; nay, these two last Sessions, the Privilege must extend to exempt them even from the Judicature of the Parliament itself: As also before the same King's Reign, the House of Commons never thought of Judicature, as being in the Nature of their Constitution incapable of it; but since, they are not only become Judges of their own Privileges, condemning and imprisoning their Fellow-subjects at pleasure, and without an Oath, and also Judges, of all Elections; by which, very often, they, and not the Places, chuse their Fellow-members: But now it is come to that, that the House of Commons pass Sentence on the Lords Proceedings, make new Crimes, and add Pre-instruments to them by their own Authority: If you will ask the Reason of this Change; it is plain that Parliaments began in *Henry the VIII's* Time to be longer than they ought; that Prince knowing that long Parliaments were fitted to make great Changes. They have been too frequent since, but never of that Length as this; besides all this, the long Continuation of Representatives renders them liable

liable to be corrupted, and won off from the Public Interest; it gives them Time to settle their Cabals and Interest at Court, and takes away the great Security the Nation has; that if it be possible to happen that the spiritual Lords, because of their great Dependance on the Crown, the Popish Lords being under the Pressure of so severe Laws, together with the Court-Lords, and great Officers, should, in any future Age, make up a greater Number of the House of Lords, and should pass Things very prejudicial to the Public, yet all should prove ineffectual, and the Nation remain safe in an House of Commons lately chosen, that have not had Time to learn new Sentiments, or to put off their old Principles at a good Market. How great has been the Modesty of this present House of Commons, that having had the Purse of the Nation thus long in their Hands, as being those that first began the Grants of Subsidies, Aids, &c. to the King, and so, by consequence, have all the Addresses made to them, whenever the Wants of the Crown (which in this active Age are very often) require it, that they have not made use of it, to the Prejudice of the Public, or to their own Advantage? It was a very high Temptation, and might easily have rendered them, in their own Opinion, more than Lords; and they are rather to be commended, that they insisted on no higher Terms with the Lords House, than wondered at, for what they did; considering the Matter, Ground, and the Circumstances wherein they stood; and yet they were certainly mistaken, and not a little forgot themselves, when they would not allow the Lords House a Power over the Sums in any Bill of Subsidy or Aid, that they had once set; which was not only directly contrary to the Interest of the People that chose them, but against the antient and express Rule and Custom of Parliament; whereby it is clear, if the Commons grant five Subsidies, and the Lords agree but to four, that Bill of Subsidy need not be sent down to the Commons for their Consent to such an Alteration. And they certainly were grown very high in their own Opinion, and had a very low Esteem for the Lords, when they neglected the Safety of their best Friends in that House, and did, almost with Scorn, refuse the passing of the Bill for the more fair and equal Trial of Peers, which in several Sessions was sent down to them. How great were the Apprehensions of all sober and wise Men, at every Meeting of this present Parliament, during these late Years? and how much is to be ascribed to the Goodness of our Prince, and to the Virtue of the Members of this present House of Commons, that Honours, Offices, Pensions, Money, Employments, and Gifts, had not been bestowed and accepted, and the Government, as in *France*, *Denmark*, and

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other Countries, made absolute, and at the Will of the Prince? How easily this may be done in future Ages, under such Princes, and such an House of Commons as may happen, if long and continued Parliaments be allowed for Law, may be made some Measure of judging by this; where, tho' the Prince had no Design; and the Members of the House of Commons have shewed so great Candor and Self-denial, yet the best Observers are apt to think that we owe it to the strong and opposite Factions at Court, that many Things of great Alterations have not passed.

And moreover, it cannot be passed over with Silence, nor considered without great Thoughts of Heart, to what a Price a Member of the House of Commons Place is come. In former times, when Parliaments were short and frequent, the Members constantly received their Wages, both from their Counties and Boroughs; many of the poorer Boroughs petitioned to be excused from sending Members, as not being able to bear their Charge; and were so: Laws were made in favour of the Gentry, that Corporations should compel none but the Freemen of their own Town to serve for them; nay, you shall find in all the antient Returns of Writs for Knights of the Shires, their Sureties for their Appearance returned with them. But now the Case is altered, 1500*l.* and 2000*l.* and lately 7000*l.* is a Price Men pay to be entrusted: It is to be hoped the Charity of those worthy Persons, and their Zeal for the public Interest, has induced them to be at this Expence: But it were better to be otherwise; and there is a scurvy *English* Proverb, *That Men that buy dear, cannot live by selling cheap.* And besides all these, the very Privilege of the Members, and of those they protect in a Parliament of so long Duration, is a Pressure that the Nation cannot well support itself under: So many thousand Suits of Law stopped, so vast a Sum of Money withheld from the right Owners, so great a Quantity of Land unjustly possessed, and in many Cases the Length of Time securing the Possession, and creating a Title: And it is an Observation not unworthy the making, that all this Extent of Privilege beyond its due Bounds has first risen from the Members of the House of Commons: That House to this Day pretends to forty Days Privilege before and after Parliament; the House of Lords but twenty, and yet the Privilege of Parliament is the same to both: And if the House of Commons obtain their forty Days to become Law and Custom, the Lords will certainly enjoy the same Privilege; but the Cure of this Evil is very easy in frequent and short Parliaments; the Members will affect no larger Privileges than are necessary and useful to them; for such as oppress and injure others, cannot expect a second Choice, and the present Time is but short.

To

To all this there are two Objections that make a great Anno 27, Cas.
Sound, but have really nothing of Weight in them: The II. 1675.
first Objection is, *That the Crown is in Danger if you call a new Parliament*; if these Men be in earnest that urge this, it were to be wished they would consider well what are the Men are likely to be chosen, and they are not difficult to be guessed at thro' the whole Kingdom; Men of Quality, of Estates, and of the best Understanding; such will never affect, change, or disturb the King's Government: A new Parliament will be the Nation, and that will never stick at small Matters to render themselves acceptable to their Prince. Would the King have Acquaintance with his People? This is his way. Would he have yet more, the Love of his People? Thus he is sure to have it. Would the King have a considerable Sum of Money to pay his Debts, and put him at Ease? Thus he cannot fail of it; nay, he shall have it as a Pledge of Endearment between him and his People; they give it themselves, and they know the King receives it as from them. The *English* Nation are a generous People, and have at all times expressed themselves ready to supply even the Humours and Excesses of their Princes, and some of the best-beloved Princes we have had were such as by War, or otherwise, put us to the most Expence: Witness *Edward I.* *Edward III.* and *Henry V.* but then always they were satisfied that the Honour of the Nation was preserved; and whatever private or personal Excesses the Prince had, yet the Nation was secure, there was no Design upon them, neither should their Money or their Strength be used against them: All this is the Happiness of our present State under our most gracious King. But how shall the People know and be secure it is so, but by those they annually send up to Parliament from among themselves? Whereas, if the King should have a great Sum of Money given by his Parliament, it would be looked upon as theirs, not as the People's Gift; and the best of Men with their Circumstances cannot avoid the Suspicion, when they give much to have received some; and Men will not chearfully undergo the Burden of a Tax, and their own Wants in the Time of this general Poverty, when they apprehend others have the Thanks, and perhaps the Reward of their Sufferings.

The second Objection is, with great Apprehensions and Passion, urged by the Bishops, *That the Church and the Parliament fall together*. Which Objection, how vain it is, you will easily confess, if (as we said before) the Persons who are like to be chosen be considered, the Dissenting Protestants may very probably find more Favour and Ease, but the Church can never suffer, either in her Lands or Dignities she now enjoys, by an House of Commons consisting of Men of the

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the best Quality and Estates in *England*, as the next certainly will be. But, on the other side, what do the Bishops mean by this Assertion? Most certainly it is not their Intent to make the Interest of the Church and the Nation direct Opposites, and inconsistent one with the other; and yet in saying this they confess, that this House of Commons are not the true Representatives of those they serve for; that the People and they are of different Minds; that if they were to chuse again, they would chuse other Men of other Sentiments; and it must be confessed, that whatever is not natural, is by Force, and must be maintained by Force. A Standing-Parliament and a Standing Army are like those Twins that have their lower Parts united, and are divided only above the Navel; they were born together, and cannot long out-live each other. Certainly that Man is no Friend to the Church, that wishes a third incorporated with those two.

To conclude this Debate, the Continuance of this present Parliament any longer is impracticable; the Breach this House of Commons has made upon the Lords, is as unlikely to be repaired with these present Men, as it is to be renewed by another House of Commons of a new Election. If you consider the Power, the Courtship, and the Addresses that these Men have for so many Years enjoyed and received, they may also be forgiven, if they think themselves greater Men than the Lords in the higher House; besides, it is well known that many of the ablest and most worthy Patriots amongst them have carried this Difference to the greatest Height, with this only Design, that by this Means they might deliver the Nation from the Danger and Pressure of a long continued Parliament; whereas a new chosen House of Commons, especially if it were fixed, and known that it could not remain long, could not be apprehended to have any Affection to exceed their just Bounds, nor to renew a Contest where the Interest of the People is manifestly on the Lords Side; for besides the undoubted Right and constant Practice that the Lords enjoy in the Case of Appeals from Courts of Equity, all other Expedients, when well considered, give the Crown, the Favourites and Ministers, the Power over every Man's Estate in *England*.

Thus you see it is the Interest of all Sorts of Men to have a new Parliament: This will give the King constant and never-failing Supplies, with the Hearts and Good-Will of his People: This will not only preserve the Church in the Honours, Dignities, and Revenues she now enjoys, and make her the *Proteatrix* and *Asylum* of all the Protestants through *Europe*, but will also increase the Maintenance of the Ministry in Corporations and great Towns, which is now much wanting,

ing, and of great Concern to the Church. This will procure the Dissenting Protestants Ease, Liberty, and Protection: The Papiſts may juſtly expect by this, to be diverted from that grievous Preſſure of Penal Laws they lie under, if they can be contented with being deprived of Acceſs to Court, bearing Office or Arms: The great Officers and Miniſters may under this enjoy their Places undiſturbed and in quiet, and be ſecure with a moderate Conduct and reaſonable Condeſcenſions, to attain that in a new Parliament, which they have by Experience found impoſſible in the old. In a word, there is not to be imagined an Intereſt againſt this, unleſs there be an inveterate Party ſtill remaining in the World, who, to compaſs their Revenge, and repair their broken Fortunes, would hope to ſee the Act of Oblivion ſet aſide, and this happy Monarchy turned into an abſolute, arbitrary, military Government; but Charity bids us hope there are no ſuch Men.

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The Debate continued till Eight o'Clock, when it paſſed in the Negative. Content Forty eight, Not Content Fifty. The chief Lords for the Addreſs were his Royal Highneſs, the Duke of *Buckingham*, the Earls of *Mancheſter*, *Shaſbury*, *Clarendon*, *Mulgrave*, *Scarſdale* and *Effex*, the Lords *Halliſax*, *Wharton*, *Mobun* and *Townſend*. The chief againſt the Addreſs were the Lords Keeper (*Finch*,) Treafurer (*Danby*,) Privy-Seal (*Angleſea*,) and Great Chamberlain (*Lindſey*,) Duke *Lauderdale*, the Earls of *Northampton*, *Briſtol*, and *Oſſory*, and ALL the Biſhops that were preſent.

The Houſe then adjourn'd to Monday the 22d, when the following Proteſt was enter'd, viz.

We whoſe Names are underwritten, Peers of this Realm, having propoſed, that an humble Addreſs might be made to his Majeſty from this Houſe, that he would be graciouſly pleaſed to diſſolve this Parliament; and the Houſe having carried the Voſe in the Negative; for the Juſtification of our loyal Intentions towards his Majeſty's Service, and of our true Reſpect and Deference to this Honourable Houſe, and, to ſhew that we have no ſiniſter or indirec't Ends in this our humble Propoſal, do, with all Humility, herein ſet forth the Grounds and Reaſons why we were of Opinion that the ſaid humble Addreſs ſhould have been made.

Proteſt thereon.

1^{ſt}, We do humbly conceive, that it is according to the antient Laws and Statutes of this Realm, that there ſhould be frequent and new Parliaments, and that the Practice of ſeveral hundred Years hath been accordingly.

2^{dly}, It ſeems not reaſonable, that any particular Number of Men ſhould, for many Years, engroſs ſo great a Truſt of the People, as to be their Representatives in the Houſe

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House of Commons; and that all other the Gentry, and the Members of Corporations of the same Degree and Quality with them, should be so long excluded; neither, as we humbly conceive, is it advantageous to the Government, that the Countries, Cities and Boroughs, should be confined for so long a Time to such Members as they have once chosen to serve for them; the mutual Correspondence and Interest of those who choose, and are chosen, admitting great Variations in Length of Time.

3dly, The long Continuance of any such who are intrusted for others, and who have so great a Power over the Purse of the Nation, must, in our humble Opinion, naturally endanger the producing of Factions and Parties, and the carrying on particular Interests and Designs, rather than the Public Good.

And we are the more confirmed in our Desires for the said humble Address, by reason of this unhappy Breach fallen out betwixt the two Houses, of which the House of Peers hath not given the least Occasion, they having done nothing but what their Ancestors and Predecessors have in all Times done, and what is according to their Duty, and for the Interest of the People, that they should do; which, notwithstanding the House of Commons have proceeded in such an unprecedented and extraordinary Way, that it is, in our humble Opinion, become altogether impracticable for the two Houses, as the Case stands, jointly to pursue those great and good Ends for which they were called. For these Reasons we do enter this our Protestation against, and Dissent unto the said Vote.

Buckingham, Shaftsbury, Dorset, Newport, Westmoreland, P. Wharton, Delamer, Grey de Rolleston, Salisbury, Mobun, Stamford, H. Sandys, Howard E. of Berks, Clarendon, Townshend, J. Bridgewater, F. Fauconberg, Halifax, Winchester, Yarmouth, Chesterfield, William Petre.

Parliament pro- enough to set their Names before the King came to prorogue
rogued. the Parliament which he did to the 15th of February Twelvemonth.



[In the Beginning of this long Recess the People of England were so impatient for a general, secure Peace, and so jealous of the Increase of Popery and the French Power, that they took the Liberty of reflecting upon the King and his Ministry in so open a Manner, that it was thought fit by Order of

of Council to put down all common Coffee-Houses by Proclamation, with this Reason given, *Because in such Houses,* Anno 27, Chz.
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and by the Occasion of the Meeting of disaffected Persons in them, divers false, malicious and scandalous Reports were devised and spread abroad, to the Defamation of his Majesty's Government, and to the Disturbance of the Quiet and Peace of the Realm. Soon after, another Proclamation was publish'd for discovering and punishing malicious and disaffected Persons, who did daily devise and publish, as well by Writing as Printing, sundry false, infamous and scandalous Libels; endeavouring thereby not only to traduce and reproach the Ecclesiastical and Temporal Government of this Kingdom, and the Public Administrations of the same, but also to stir up and dispose the Minds of his Majesty's Subjects to Sedition and Rebellion. But upon Petition of the Merchants and Retailers of Coffee and Tea, a Permission was granted to keep open their Coffee-Houses to the 24th of June; upon Condition, that every Keeper of such House should use his utmost Endeavour to prevent and hinder all scandalous Papers, Books or Libels, concerning the Government, or the Public Ministry, from being brought into his House, or to prevent and hinder all Persons from declaring and uttering in his House all manner of false and scandalous Reports of the Government, or any of the Ministers thereof.

During this Interval, likewise, the King (tho' still Mediator for a general Peace) having, as it is thought, with some Reluctancy made Peace with *Holland*, and being now in a Neutrality with other Princes, appeared resolved to keep the Peace at home. But the *Dutch* on one Side suspected, that he secretly gave Assistance to the *French*; and the *French* again alledged, That some *English* Ships were retain'd in the Service of *Holland*. Hence, upon Complaints made to the King by the Ministers of several Princes now in Amity with his Majesty; that divers of his Subjects had lately taken Commissions from some Princes and States now in Amity with his Majesty, to serve at Sea against others, who are likewise his Majesty's Allies; his Majesty, for the Preservation and Continuance of Friendship and Amity between him and his respective Allies, thought fit, by his Royal Proclamation given at *Whitehall*, May the 17th, strictly to prohibit the same for the future. Shortly after, upon further Complaints from abroad, that Acts of Hostility were suffer'd to be committed under the Protection of the *English* Coasts and Ports, his Majesty was pleas'd to cause another Royal Proclamation to be published, in which he declar'd, That, finding the Security of Navigation and Commerce to and from his Majesty's Ports, in this Time of War, hath been very much disturb'd, and that even the Reverence due to his Ports hath been

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violated, his Will and Pleasure is, that the following Rules and Ordinances be observ'd, 1st, That within his Majesty's Ports, Havens and Creeks, and the Precincts thereof, no Hostilities shall be committed by any of the Parties whatsoever, but that all Ships during their being in the said Ports, &c. shall be under his Majesty's special Protection; that the Ships and Goods of all Aggressors or Offenders herein shall be *ipso facto* confiscated, notwithstanding any Commission of War they may have. 2^{dly}, That all his Majesty's Officers and Subjects do, as far as in them lies, prohibit the roving of Men of War so near his Majesty's Coasts or Ports, as may give Apprehension to the Merchant-men that their Passage is unsafe, or may hinder the Commerce of his Subjects. That all his Majesty's Officers do succour and rescue all Merchant-men and others, as shall be attack'd upon his Majesty's Coasts, and apprehend and seize the Offenders, in order to bring them to condign Punishment. To which were added five other Rules and Orders, all design'd to enforce the like general Intention of Neutrality and impartial Protection.

But while the *French* in a special Manner received the Benefit of these Orders, the *English* Vessels could not be so protected from the Injustice and Insolence of their Privateers; who, after the separate Peace between *England* and *Holland*, were let loose, and swarming in the *Channel*, pick'd up many of the *English* Merchant-men, and, as if in open War, made Prizes of them.

Under the Pressure of which Losses and Indignities, the Lords of the Committee of Trade, by the repeated Petitions from the Merchants and Seamen, found themselves obliged to present to his Majesty in Council a Report touching the Injuries which his Subjects sustained by the *French* Privateers; with a List of such *English* Ships as had been seized by them since *December* 1673, to the Number of fifty-three, concluding thus, Wherefore considering that the Root of all this Disorder arises from the Violence and Rapine of the *French* Capers, who ought to be look'd on as the Disturbers of the Public Quiet, and Enemies to the good Friendship between the two Crowns; We are humbly of Opinion, That your Majesty has just Occasion, from the Injuries past, and those which are now depending, and which do every Day increase, to make a very serious Representation of all unto his most Christian Majesty; and not only press for some better Method of repairing the Grievances mention'd, but earnestly to insist on the calling in of all Privateers: Or else your Majesty must do right, and give Defence to your Subjects from all the Insolences which they so frequently meet.' Signed *Finch C. Anglesea, Bath, Bridgewater, Craven, H. Coventry, J. Ernley, G. Carteret, and Robert Southwell.* To

Representation
of the Lords of
Trade.

which

which Report a favourable Answer in Council was given ; as Anno 29, Car. II. 1676-7. That a Copy of the said Report should be transmitted to his Majesty's Ambassador at *Paris*, and the like to the French Ambassador here, with suitable Expostulations, &c.

But notwithstanding this, no other Satisfaction could be obtain'd, than by doing Justice to themselves, by a Reprizal on several of their Privateers ; and this only Method did by no means repair the Losses of private Men, tho' it seem'd a sort of a Vindication of the public Honour. These Inconveniences of the *French*, however, had this Effect, that they made the People of *England* more and more impatient for a Sitting Parliament, expecting and hoping that this insufferable Grievance would then be effectually redress'd by a Reparation of their Damages, or at least by an open War. That, at length, on the 23^d of *December*, his Majesty thought fit to quiet his loving Subjects by the certain Prospect of a Sitting Parliament, and by a Proclamation to declare, *That having been pleased to continue this present Parliament by Prorogation until the 15th of February now next coming, he had a full Purpose and Resolution, that the Parliament should be then holden : And he was desirous, for divers weighty Considerations, to have then a full Assembly of the Members of both Houses.* A Step which seem'd the more necessary, since the Length of the Prorogation had given Rise to an Opinion, that the Parliament, according to the ancient Laws of the Kingdom, was actually dissolved, and several Pamphlets were publish'd in support of it, which made a great Noise.]

Proclamation
for calling the
Parliament.



The SIXTEENTH SESSION of the Second Parliament

Accordingly took place on the Day appointed ; greater Number of People than ordinary attending the opening of it ; which was done by his Majesty with a Speech to both Houses *, seconded by another of the Lord Chancellor's (*Finch*.) But the Commons being withdrawn, and a Bill offered to be read, the Duke of *Buckingham* rose up, and desired to be heard first ; which Request of his being comply'd with, he express'd himself as follows :

My Lords,

' I have often troubled your Lordships with my Discourse in this House ; but I confess I never did it with more Trouble
A a 2 ble

* Both these are to be found in CHANDLER'S Hist. Anno 29 Car. II. 1676-7, Page 242, 243, 244, 245, 246, 247.

Anno 29, Car.
II. 1676-7.

ble to myself, than I do at this time, for I scarce know where I should begin, or what I have to say to your Lordships: On the one side, I am afraid of being thought an unquiet and pragmatical Man; for, in this Age, every Man that cannot bear every thing, is called unquiet; and he that does ask Questions, for which we ought to be concerned, is looked upon as pragmatical. On the other side, I am more afraid of being thought a dishonest Man; and of all Men, I am most afraid of being thought so by myself; for every one is the best Judge of the Integrity of his own Intentions; and tho' it does not always follow, that he is pragmatical whom others take to be so, yet this never fails to be true, that he is most certainly a Knave who takes himself to be so. No body is answerable for more Understanding than God Almighty has given him; and therefore, tho' I should be in the wrong, if I tell you Lordships truly and plainly what I am really convinced of, I shall behave myself like an honest Man: For it is my Duty, as long as I have the Honour to sit in this House, to hide nothing from your Lordships, which I think may concern his Majesty's Service, your Lordships Interest, or the Good and Quiet of the People of *England*.

' The Question, in my Opinion, which now lies before your Lordships, is not what we are to do, but whether at this time we can do any thing as a Parliament; it being very clear to me that the Parliament is dissolved: And if, in this Opinion, I have the Misfortune to be mistaken, I have another Misfortune joined to it; for I desire to maintain the Argument with all the Judges and Lawyers in *England*, and leave it afterwards to your Lordships to decide whether I am in the right or no. This, my Lords, I speak not out of Arrogance, but in my own Justification, because if I were not thoroughly convinced that what I have now to urge, is grounded upon the fundamental Laws of *England*, and that the not pressing it at this time might prove to be of a most dangerous Consequence, both to his Majesty and the whole Nation, I should have been loth to start a Notion, which perhaps may not be very agreeable to some People. And yet, my Lords, when I consider where I am, whom I now speak to, and what was spoken in this Place about the Time of the Prorogation, I can hardly believe what I have to say will be distasteful to your Lordships.

' I remember very well, how your Lordships were then displeased with the House of Commons; and I remember too as well, what Reasons they gave to you to be so. It is not so long since, but that I suppose your Lordships may call to Mind, that, after several odd Passages between us, your
Lordships

Lordships were so incensed, that a Motion was made here for Anno 24, Car.
II. 1676-7.
an Address to his Majesty, about the Dissolution of this Parliament; and tho' it failed of being carried in the Affirmative by two or three Voices, yet this in the Debate was remarkable, that it prevailed with much the major Part of of your Lordships that were here present; and was only overpowered by the Proxies of those Lords who never heard the Arguments. What Change there has been since, either in their Behaviour, or in the State of our Affairs, that should make your Lordships change your Opinion, I have not yet heard. And therefore if I can make it appear (as I presume I shall) that by Law the Parliament is dissolved, I presume your Lordships ought not to be offended at me for it.

' I have often wondered, how it should come to pass that this House of Commons, in which there are so many honest, and so many worthy Gentlemen, should yet be less respectful to your Lordships, as certainly they have been, than any House of Commons that were ever chosen in *England*; and yet if the Matter be a little enquired into, the Reason of it will plainly appear. For, my Lords, the very Nature of the House of Commons is changed; they do not think now that they are an Assembly that are to return to their own Homes, and become private Men again (as by the Laws of the Land, and the antient Constitution of Parliaments they ought to be) but they look upon themselves as a standing Senate, and as a Number of Men picked out to be Legislators for the rest of their Lives. And if that be the Case, my Lords, they have Reason to believe themselves our Equals. But, my Lords, it is a dangerous Thing to try new Experiments in a Government: Men do not foresee the ill Consequences that must happen, when they go about to alter those essential Parts of it upon which the whole Frame depends, as now in our Case, the Customs and Constitutions of Parliament: For all Governments are artificial Things, and every Part of them has a Dependance one upon another. And with them, as with Clocks and Watches, if you should put great Wheels in the Place of little ones, and little ones in the Place of great ones, all the Movements would stand still: So that we cannot alter any one Part of a Government without prejudicing the Motions of the whole.

' If this, my Lords, were well considered, People would be more cautious how they went out of the old, honest, *English* Way and Method of Proceeding. But it is not my Business to find Fault, and therefore, if your Lordships will give me Leave, I shall go on to shew you why, in my Opinion, we are at this Time no Parliament. The Ground of this Opinion of mine is taken from the antient and unquestionable Statutes of this Realm; and give me Leave to tell your Lordships,

Ann 19, Cap.
II, 1474-7.

Lordships, by the way, that Statutes are not like Women, for they are not one jot the worse for being old. The first Statute that I shall take notice of is, that in the 4th Year of Edward III. chap. 14. thus set down in the printed Book: Item, *It is accorded that a Parliament shall be holden every Year once, and more often, if need be.* Now, tho' these Words are as plain as a Pike staff, and no Man living, that is not a Scholar, could possibly mistake the Meaning of them, yet the Grammarians of those Days did make a Shift to explain, that the Words, *if need be*, did relate as well to the Words *every Year once*, as to the Words *more often*; and so by this grammatical Whimsy of theirs have made this Statute to signify just nothing at all. For this Reason, my Lords, in the 36th Year of the same King's Reign, a new Act of Parliament was made, in which those unfortunate Words, *if need be*, are left out, and that Act of Parliament relating to *Magna Charta*, and other Statutes, made for the public Good, Item, *For Maintenance of these Articles and Statutes, and the Redress of divers Mischiefs and Grievances, which daily happen, a Parliament shall be holden every Year*, as at other Time was ordained by another Statute. Here now, my Lords, there is not left the least Colour or Shadow for Mistake, for it is plainly declared, that the Kings of England must call a Parliament once within a Year; and the Reasons why they are bound to do so, are as plainly set down, namely, *for the Maintenance of Magna Charta, and other Statutes of the same Importance, and for preventing the Mischiefs and Grievances which daily happen.*

The Question then remaineth, Whether these Statutes have been since repealed by any other Statutes or no? The only Statutes I ever heard mentioned for that, are the two Triennial Bills, the one made in the last King's, and the other in this King's Reign. The Triennial Bill, in the last King's Reign, was made for the Confirmation of the two above-mentioned Statutes of Edward III. For Parliaments having been omitted to be called every Year according to those Statutes, a Statute was made in the last King's Reign to this purpose, *That if the King should fail of calling a Parliament, according to the Statutes of Edward III. then the third Year the People should meet of themselves, without any Writs at all, and chuse their Parliament-men.* This way of the People's chusing their Parliament of themselves, being thought disrespectful to the King, a Statute was made in this last Parliament, which repealed the Triennial Bill; and after the repealing Clause (which took Notice only of the Triennial Bill made in the last King's Reign) there was in this Statute a Paragraph to this purpose: *That because, by the antient Statutes of the Realm, made in the Reign of Edward III. Parliaments*

ments

ments are to be held very often, it should be enacted, that within *Ann. 29, Car.*
 three Years after the Determination of that present Parliament, *II. 1676-7.*
 Parliaments should not be discontinued above Three Years at
 most, and be holden oftener if need required. There have
 been several half kind of Arguments drawn out of these
 Triennial Bills, against the Statutes of Edward III. which
 I confess I could never remember, nor indeed those that
 urged them to me ever durst own: For they always laid
 their Faults upon some body else, like ugly, foolish Children,
 whom, because of their Deformity and Want of Wit, the
 Parents are ashamed of, and so turn them out on the Parish.

‘ But, my Lords, let the Arguments be what they will,
 I have this short Answer to all that can be wrested out of
 these Triennial Bills, *That the first Triennial Bill was repealed,*
before the Matter now disputed of was in Question; and the
last Triennial Bill will not be in Force till the Question be de-
cided, that is, till the Parliament is dissolved. The whole
 Matter, my Lords, is reduced to this short Dilemma; either
 the Kings of England are bound by the Acts above-mentioned
 of Edward III. or else the whole Government of England by
 Parliaments, and by the Laws above, is absolutely at an
 end: For if the Kings of England have Power, by an Order
 of theirs, to invalidate an Act made for the Maintenance of
Magna Charta, they have also Power, by an Order of theirs,
 to invalidate *Magna Charta* itself; and if they have Power,
 by an Order of theirs, to invalidate the Statute itself, *de*
Tallagio non concedendo, then they may not only, without
 the Help of a Parliament, raise Money when they please,
 but also take away any Man's Estate when they please, and
 deprive every one of his Liberty, or Life, as they please.

‘ This, my Lords, I think, is a Power that no Judge or
 Lawyer will pretend the Kings of England to have; and yet
 this Power must be allowed them, or else we that are met
 here this Day cannot act as a Parliament: For we are now
 met by virtue of the last Prorogation, and that Prorogation
 is an Order of the King's, point-blank contrary to the two
 Acts of Edward III. for the Acts say, *That a Parliament*
shall be holden once within a Year; and the Prorogation saith,
A Parliament shall not be held within a Year, but some Months
after; and this (I conceive) is a plain Contradiction, and
 consequently, that the Prorogation is void. Now, if we
 cannot act as a Parliament, by virtue of the last Proroga-
 tion, I beseech your Lordships, by virtue of what else can
 we act? Shall we act by virtue of the King's Proclamation?
 Pray, my Lords, how so? Is a Proclamation of more Force
 than a Prorogation? Or if a Thing that hath been ordered
 the first time be not valid, doth the ordering it the second
 time make it good in Law? I have heard, indeed, *That two*
Negatives

Anno 29, Car. II. 1676-7. *Negatives make an Affirmative*; but I never heard before that two Nothings ever made any Thing.

Well, but how then are we met? Is it by our own Adjournment? I suppose no Body has the Confidence to say that: Which Way then is it? Do we meet by Accident? That, I think, may be granted, but an accidental Meeting can no more make a Parliament, than accidental clapping a Crown upon a Man's Head can make a King. There is a great deal of Ceremony required to give a Matter of that Moment a legal Sanction. The Laws have reposed so great a Trust, and so great a Power in the Hands of a Parliament, that every Circumstance relating to the manner of their electing, meeting, and proceeding, is looked after with the nicest Circumspection imaginable. For this Reason the King's Writs about the Summons of Parliament are to be issued out *verbatim*, according to the Form prescribed by the Law, or else that Parliament is void and null. For the same Reason, if a Parliament summoned by the King's Writ, do not meet the very same Day that it is summoned to meet upon, that Parliament is void and null: And, by the same Reason, if Parliaments be not legally adjourned, *de die in diem*, those Parliaments must be also void and null.

Oh! but some say, There is nothing in the two Acts of Edward III. to take away the King's Power of Prorogation, and therefore the Prorogation is good. My Lords, under Favour, this is a very gross Mistake; for, pray examine the Words of the Act: The Act says, *A Parliament shall be holden once a Year*; now to whom can these Words be directed, but to them who are to call a Parliament? And who are they but the Kings of England? It is very true, this does not take away the King's Power of proroguing Parliaments, but it most certainly limits it to be within a Year. Well, then; but it is said again, if that Prorogation be null and void, then Things are just as they were before, and therefore the Parliament is still in being. My Lords, I confess, there would be some Weight in this, but for one Thing, which is, that not one Word of it is true: For if, when the King had prorogued us, we had taken no notice of the Prorogation, there is an Impossibility of our meeting and acting any other Way. One may as properly say, that a Man that is killed by Assault is still alive, because he was killed unlawfully, as that the Parliament is still alive, because the Prorogation was unlawful. The next Argument that those are reduced to, who would maintain this to be yet a Parliament, is, that the Parliament is prorogued *sine die*, and therefore the King may call them again by Proclamation. In the first Part of this Proposition I shall

shall not only agree with them, but also do them the Favour Anne 29, Car. II. 1676-7.
 to prove, that it is so in the Eye of the Law, which I never
 heard they have yet done ; for the Statutes say, *That a Par-*
liament shall be holden once in a Year ; and the Prorogation
 having put them off till a Day without the Year, and con-
 sequently excepted against by the Law, that Day, in the
 Eye of the Law, is no Day at all, that is, *fine die* ; and
 the Prorogation might as well have put them off till so
 many Months after Doom's-Day ; and then, I think, no
 Body would have doubted, but that had been a very sufficient
 Dissolution.

‘ Besides, my Lords, I shall desire your Lordships to take
 Notice, that, in former Times, the usual Way of dissolving
 Parliaments was to dismiss them *fine die* ; for the King,
 when he dissolved them, used to say no more, but that he
 desired them to go home, till he sent for them again, which
 is a Dismission *fine die*. Now if there were forty ways of
 dissolving Parliaments, if I can prove this Parliament has
 been dissolved by any one of them, I suppose there is no
 great need of the other thirty-nine. Another Thing, which
 they much insist upon, is, that they have found out a Pre-
 cedent in Queen *Elizabeth's* Time, when a Parliament was
 once prorogued three Days beyond a Year : In which I
 cannot chuse but observe, that it is a very great Confirma-
 tion of the Value and Esteem all People ever had of the
 forementioned Acts of *Edward III.* since from that Time
 to this, there can but one Precedent be found for the proroguing
 a Parliament above a Year, and that was but for three Days
 neither. Besides, my Lords, this Precedent is of a very
 odd kind of Nature ; for it was in Time of a very great
 Plague, when every Body, of a sudden, was forced to run
 away one from another ; and so being in haste, had not
 Leisure to calculate well the Time of the Prorogation, tho’
 the appointing it to be within three Days of the Year is
 an Argument to me, that their Design was to keep within
 the Bounds of the Acts of Parliament. And if the Mistake
 had been taken notice of in Queen *Elizabeth's* Time, I
 make no Question but she would have given a lawful Re-
 medy.

‘ Now, I beseech your Lordships, what more can be
 drawn from the shewing this Precedent, but only that be-
 cause once upon a Time a Thing was done illegally, there-
 fore your Lordships should do so again now : Though my
 Lords, under Favour, ours is a very different Case from
 theirs ; for this Precedent they mention was never taken
 Notice of, and all Lawyers will tell you, that a Precedent
 that passes *sub silentio*, is of no Validity at all, and will never
 be admitted in any judicial Court where it is pleaded. Nay,
 1676. B b Judge

Anno 29, Car. II. 1676-7. Judge *Vaughan* says, in his Reports, *That in Cases which depend upon fundamental Principles, for which Demonstrations may be drawn, Millions of Precedents are to no Purpose.* Oh!

but, say they, you must think prudentially of the Inconveniencies which will follow upon it : For if this be allowed, all those Acts which were made in that Session of Parliament will be then void. Whether that be so or no, I shall not now examine ; but this I will pretend to say, that no Man ought to pass for a prudential Person, who only takes Notice of the Inconveniencies of one Side. It is the Part of a wise Man to examine the Inconveniencies of both Sides, to weigh which are the greatest, and to be sure to avoid them : And, my Lords, to that kind of Examination I willingly submit this Cause, for I presume it will be easy for your Lordships to judge, which of these two will be of the most dangerous Consequence to the Nation ; either to allow that the Statutes made in that particular Session, in Queen *Elizabeth's* Time, are void, (which may easily be confirmed by a lawful Parliament) or to lay it down for a Maxim, *That the Kings of England, by a particular Order of theirs, have Power to break all the Laws of England when they please.*

And, my Lords, with all the Duty we owe to his Majesty, it is no Disrespect to him to say, that his Majesty is bound up by the Laws of *England* ; for the great King of Heaven and Earth, God Almighty himself, is bound by his own Decrees : And what is an Act of Parliament, but a Decree of the King, made in the most solemn Manner it is possible for him to make it, that is, with the Consent of the Lords and Commons ? It is plain then, in my Opinion, that we are no more a Parliament ; and I humbly conceive, your Lordships ought to give God Thanks for it, since it has thus pleased him, by his Providence, to take you out of a Condition wherein you must have been entirely useless to his Majesty, to yourselves, and the whole Nation : For, I do beseech your Lordships, if nothing of this I have urged were true, what honourable Excuse could we find for our acting again with the House of Commons ? Except we could pretend such an exquisite Art of Forgetfulness, as to avoid calling to mind all that passed between us the last Session ; and unless we could have also a Faculty of teaching the same Art to the whole Nation. What Opinion could they have of us, if it should happen, that the very same Men, who were so earnest the last Session for having the House of Commons dissolved, when there was no Question of their lawful sitting, should be now willing to join with them again, when without Question they are dissolved ?

• Nothing

‘ Nothing can be more dangerous to a King or a People, Anno 29, Car. II. 1676-77
 than that the Laws should be made by an Assembly, of
 which there can be a Doubt, whether they have a Power to
 make Laws or no : And it would be in us inexcusable, if
 we should overlook this Danger, since there is for it to easy
 a Remedy, which the Law requires, and which all the Na-
 tion longs for.

‘ The calling a new Parliament it is, that only can put
 his Majesty into a Possibility of receiving Supplies ; that can
 secure your Lordships the Honour of sitting in this House like
 Peers, and your being serviceable to your King and Coun-
 try ; and that can restore to all the People of *England* their
 undoubted Rights of chusing Men frequently to represent
 their Grievances in Parliament ; without this, all we can
 do would be in vain ; the Nation may languish a while, but
 must perish at last : We should become a Burthen to our-
 selves, and a Prey to our Neighbours. My Motion there-
 fore to your Lordships shall be, that we humbly address our-
 selves to his Majesty, and beg of him, for his own Sake, as
 well as for the People’s Sake, to give us speedily a new
 Parliament ; that so we may unanimously, before it is too
 late, use our utmost Endeavours for his Majesty’s Service,
 and for the Safety, the Welfare, and the Glory of the *Eng-
 lish* Nation.’

This surprizing Speech was thought so bold and shock-
 ing, by the Lords in the Ministry, that one of them moved
 that the Duke might be called to the Bar : But the Earl of *Shaftsbury*, who was fully prepared, opposed this Motion, as Supported by
the Lords *Shaftsbury*,
Salisbury,
and *Wharton*.
 improper and extravagant ; and did with great Courage and
 Sharpness of Application, second and enforce the Duke of
Buckingham’s Argument ; and the Earl of *Salisbury* and the
 Lord *Wharton* fell in briskly on the same Side. While one
 of them was speaking, the Duke took a Pen and writ the
 following Syllogism :

‘ It is a Maxim in the Law of *England*, that the Kings of *Duke of Buck-
 England* are bound up by all the Statutes made *pro bono pub-* *ingham’s Syllo-*
lico ; that every Order or Direction of theirs, contrary to *gism.*
 the Scope and full Intent of any such Statute, is void and
 null in Law : But the last Prorogation of the Parliament
 was an Order of the King’s, contrary to an Act of King
Edward III. made for the greatest common Good, *viz.*
 the Maintenance of all the Statutes of *England*, and for
 the Prevention of the Mischiefs and Grievances which daily
 happen : *Ergo*, the last Prorogation of Parliament is void
 and null in Law ; *after which he appealed to the bishops*,
 whether it was not a true Syllogism ; and to the Judges,
 whether the Propositions were not true in Law.’

B b 2

The

Anno 27. Car.
II. 1676-7.

The four Lords
above-mention'd
ordered to the
Tower.

The Debates arose to that height, that all the four Lords were ordered to be sent to the Tower, for Contempt of the Authority and Being of the present Parliament, there to remain during the Pleasure of his Majesty and the House of Peers. In the mean time the Duke of *Buckingham* took the Opportunity of slipping out of the House, while the Lord *Anglesey* was arguing against the committing them. The House finding he had withdrawn himself, were in a Rage, and design'd to address the King for a Proclamation against him; but the Duke foreseeing the Event, would not give them so much Trouble, and appearing the next Day in his Place, the Court Lords immediately cried out, *To the Bar?* But his Grace, who could readily turn any thing serious into jest, and extricate himself out of any Difficulties, rose up, and said, *He begg'd their Lordships Pardon for retiring the Night before: That they very well knew the exact Oeconomy he kept in his Family, and perceiv'ing their Lordships intended he should be some time in another Place, he only went home to set his House in Order, and was now come to submit to their Lordships Pleasure,* which was to send him to the Tower, after the Earls of *Shaftsbury* and *Salisbury*, and the Lord *Wharton* *.

Speech of the
Duke of Bucks
thereon.

Dr. Cary im-
prisoned and
fined.

The Lords further, to shew their Resentment, order'd one Dr. *Cary* to be brought to the Bar of the House, and to be questioned concerning a Book he had carried to the Press, treating of the Illegality of the Prorogation; and because he would not satisfy them in some Interrogatories, they fined him a Thousand Pounds for his Contempt, and kept him close Prisoner till the Payment of the Money.

An Address for
a Proclamation
to apprehend
one Aaron
Smith.

Nor did they stop here, but made an Order, 'That the Serjeant at Arms attending that House should take into his Custody *Aaron Smith*, and bring him to the Bar of the House, there to answer for speaking certain dangerous and seditious Words against the Being of this present Parliament.' And Mr. *Smith* having upon this absconded, they immediately presented their humble Desires to his Majesty, 'That he would by his Royal Proclamation strictly charge and command, that the utmost and most effectual Endeavours should be used for apprehending the Person of the said *Aaron Smith*, and

* We hear that the Earl of *Shaftsbury*, being jealous of the Duke's setting himself up for the Head of his Party, used to speak slightly of him, as a Man inconsistent and giddy; which the other hearing, resented. It happened afterwards that the Duke, the Earl of *Salisbury*, and the Lord *Wharton*, being discharged on their Submission, and only the Earl of *Shaftsbury* continued in the Tower; the Earl look'd out of a Window as his Grace was taking Coach, and cry'd, 'What, my Lord, are you going to leave us? Ay, my Lord, said he, such giddy-headed Fellows as I can never stay long in a Place.' The Earl of *Shaftsbury* was continued for above Year.

and bring him before the said House of Peers (if the Parliament should be sitting at the Time of his Apprehension) or in case the Parliament should not be then sitting, before one of his Majesty's principal Secretaries of State, to the Intent that the said *Aaron Smith* might be secured, in order to his Appearance before the House of Peers, to answer for his said Offence.' To which his Majesty comply'd by a Proclamation issued out two or three Days after the Parliament broke up. And it is believed, the more effectually to chastise him and other like Offenders, that the Parliament was this Year continued by Adjournments rather than by Prorogation, as was most commonly practised.

They, likewise, prepared and sent down to the House of Commons a Bill for securing the * Protestant Religion by educating the Children of the Royal Family, and providing for the Maintenance of the Protestant Clergy.

Another for the more effectual Conviction and Prosecution of Popish Recusants.

And a third for the Regulation of the Press ; with a Clause to break open any House on Suspicion of any Pamphlet, &c.

✓ All which were rejected.

April 16, The King gave the Royal Assent to ten † Acts, and both Houses adjourn'd themselves, by his Majesty's Command, to May the 21st.

**By whom they
were rejected.
Both Houses
adjourn, and
meet again.**

The 21st of *May*, accordingly, both Houses met again; but the Struggle lying in the Lower House, we meet with nothing farther, of Consequence, relating to the Transactions of the Lords: They continued to sit, indeed, but a few Days; for the King and Commons, tho' Friends of such long standing, growing more and more out of Humour with one another, his Majesty sent for them the 18th, where, after an angry † Speech, he signified his Pleasure, That the House be adjourn'd till the 18th of *July* next; telling them, He would give them Notice by his Proclamation when he intended they should sit again; which, his Majesty was pleased to add, would not

* On Occasion of this Bill the Earl of Anglesea entered the following Protest :

Die Jovis 15^o Martii, 1676.

Hodie 3^a vice lecta est Billa, An Act for further securing the Protestant Religion by Education of the Children of the Royal Family therein, and providing for the Continuance of a Protestant Clergy.

The Question being put, Whether this Bill shall pass ?

It was resolved in the Affirmative.

Different' Anglesea :

For many weighty Reasons, which, in humble Deference and Submission to the major Vote, by which the Bill was carried, I forbear to enter particularly.

† CHANDLER'S Hist. Anno 29 Car. II. 1677, Page 257.

Ibid, 271.

Ann 29. Gen. not be till the Winter, unless there should happen some extraordinary Occasion of calling them sooner.

11. 1696-7.

Accordingly they were not permitted to meet for the Dispatch of Business till *January* the 15th; and many Things of Moment happened in the Interval, which demand a Place as necessary to a perfect Knowledge of our Parliamentary History.

Conference between the King, Duke, Sir W. Temple, &c.

The Congress at *Nimagueu* still continued, but came to no Agreement; * Sir *William Temple* had been recalled, in order, as it was given out, to make him Secretary of State, tho' it never happened; and many Conferences ensued at Home between the King and him, and sometimes his Royal Highness the Duke and the Lord-Treasurer *Danby*, all turning on the general Peace, and an intended Journey of the Prince of *Orange* to *England*. The King always expressed a great Desire for the first, but none for the other, till the first was concluded. He said, *The Parliament would never be quiet or easy with him while the War lasted Abroad: That they had got it into their Heads to draw him into it whether he would or no. That they pretended public Ends, and Dangers from France; and there might be both meant by a great many honest Men amongst them; but the Heats had been always raised by some factious Leaders, who thought more of themselves than of any thing else, and had a mind to engage him in a War, and then leave him in it, unless they might have their Terms in removing and filling up Places: And he was very unwilling to be so much at their Mercy. That, besides, he saw the longer it continued, the worse it would be for the Confederates; and therefore he would fain have the Prince make the Peace for them, if they would not do it for themselves: That if he and the Prince could fall into the Terms of it, he was sure it might be done; and after several Conversations upon this Subject, the King told him, He found that the Conduct of Spain was like to ruin all at last, therefore he had a great mind that he should go and try the Prince, if he could persuade him to it.* The Duke and the Lord-Treasurer both pressed Sir *William* upon the same Point, but he represented to them, How often he had been employed upon this Errand to the Prince, how immoveable he had found him, and how sure he was to find him so still, unless his Majesty wou'd consider of another Scheme for the Peace. That his Majesty would do well to try another Hand; and he would the better know the Prince's Mind, if his Answers were the same to both. The King said, *It was an Affair of Confidence between him and the Prince, and must be so treated; and he knew no body he had besides to send.* Upon which Sir *William* propos'd to name a Person, which was Mr. *Hyde* (afterwards E. of *Rocheſter*,) whose Choice was approv'd by the Duke

* The Chief of the English Plenipotentiaries.

of *Tork*, the Lord-Treasurer, and the King himself. *Mr. Hyde* Anno 29, Car. II. 1676-7. was dispatched away accordingly, and attended the Prince at the Camp; but found his Highness firm and resolute against the Peace, upon the very Terms he had proposed to Sir *William Temple*: Of which he gave an Account both to the King and Sir *William*; and then went to reside at *Nimwegen* as one of the Ambassadors and Mediators.

October the 9th following, however, the Prince of *Orange* Marriage of the Prince of Orange with the Lady Mary. arrived in *England*: His Marriage with the Princess *Mary* was agreed upon, and consummated the 4th of *November* following; and within a few Days after, the King, the Duke and he, with none others admitted but the Lord-Treasurer and Sir *William Temple*, fell into Debates upon the Terms of a general Peace. The Prince insisted hard upon the Strength and Enlargement of a Frontier, or Barrier, on both Sides of *Flanders*, Conference between the King and that Prince. without which France would end his War with the Prospects of beginning another, and carrying *Flanders* in one Campaign. The King was content to leave that Business a little looser, upon the Confidence that France was so weary of the War, that if they could get out of it with Honour, they would never begin another in this Reign; that the King grew past his Youth, and lazy, and would turn to the Pleasures of the Court, and Building, and leave his Neighbours in Quiet. The Prince still urged, That France would not make a Peace now, but to break the present Confederacy; and their Ambition would never end till they had all *Flanders* and *Germany* to the *Rhine*, and thereby *Holland*, in an absolute Dependence upon them, which would leave the Dutch in a bad Condition, and the English in no good one. Sir *William Temple* seconded the Prince, and told his Majesty, That in the Course of his Life, he had never observed Men's Natures to alter by Age or Fortunes; but that a good Boy made a good Man; a young Coxcomb, an old Fool; a young Cheat, an old Knave; and that quiet Spirits were so, young as well as old; and unquiet ones would be so, old as well as young: That he believed the King of France would have some Bent or other, sometimes War, sometimes Love, sometimes Building; but he was of the Prince's Opinion, that he would ever make Peace with a Design of a new War, after he had fixed his Conquest by the last; of which Opinion his Majesty approved. The Points of demanding *Lorraine* and *Alsatia* were easily agreed to by the King and Duke; but they would not hear of the County of *Burgundy*, as what France could never be brought to, tho' the Prince insisted much upon it; so as the King imagined he was touched by the Interest of his own Lands in that Country, which were too considerable to be neglected; and thereupon told him, That for his Lands he would charge himself with

Anno 29, Car.
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with either his enjoying them as safely under France as Spain; or if he should rather chuse to part with them than have that Dependence, he would undertake to get him what Price he should value them at. But the Prince answered briskly and generously, *That he should not trouble himself nor the Peace about that Matter; and that he would be content to lose all his Lands there, to get one good Town more for the Spaniards upon the Frontiers of Flanders.* This admitted great Debates between the King and Prince; one pretending *France* would never be brought to one Scheme, and the other, that *Spain* would never consent to the other. But at last it was agreed, that the Peace should be made upon these Terms, *All should be restored by France to the Emperor that had been taken in the War; the Dutchy of Lorrain to that Duke, and all on both Sides between France and Holland; and to Spain the Towns of Aeth, Charleroy, Audenard, Courtray, Tournay, Conde, Valenciennes, St. Gislard, and Binch.* That the Prince should endeavour to procure the Consent of *Spain*, and the King that of *France*; for which Purpose he should send some Person immediately over with the Proposition, who was to enter into no Reasonings upon it, but demand a positive Answer in two Days, and after that Term immediately return.

For the effecting of this, the Lord *Duras*, the afterwards Earl of *Feverham*, a Creature of the Duke's, was at last the Person fixed on, and sent over into *France*. Soon after which, the Prince and Princess * embarked for *Holland*; the King assuring his Highness, *That he would never part from the least Point of the Scheme sent over, and would enter into the War against France, if they refused it.* However, before he went, he had the Mortification to see the Sitting of the Parliament put off from the 3d of *December* to the 4th of *April*, which the *French* Ambassador had gained, to make some friendly Appearance with *France* after the Prince's Marriage, and before the Dispatch of the Terms of Peace to that Court.

But to return to the Public: Upon the Lord *Duras's* Arrival at *Paris*, the Court there was surprised both at the Thing, and more at the Manner; but took it gently and said, *His Britannic Majesty knew very well he might always be Master of the Peace; but some of the Towns in Flanders seemed very hard, especially Tournay, upon whose Fortifications such vast Sums had been expended; and that they would take some short*

* In such a Hurry, at the Instance of the Court (to disappoint the City of making certain ungrateful Compliments they were meditating to their Highnesses) that at *Canterbury* their Cash fell short, and they were obliged to borrow Plate and Money of *Dean Tillotson* to bear their Charges the rest of the Way.

short Time to consider of the Answer. His Lordship told them, *Anno 29 Car.*
he was tied to two Days Stay; but when that was out, he *II. 1676-7.*
 was prevailed with to stay some few Days longer, and to
 come away without any positive Answer: What he brought
 was, *That the most Christian King hoped his Brother would not*
break with him upon one or two Towns; but even upon them he
 would send Orders to his Ambassador at London to treat with
 his Majesty himself. And to save those Towns, very great
 Sums of Money were offered to the *English* Ambassador
Montague, for the Use of the King, and the Lord-Treasurer,
 which were never accepted. However, the King was so
 mollified, that the Business came to be drawn out into so
 many Messages from *England*, and Returns from *France*, that
 it diminished into nothing.

In the mean time, the ill Humour of the People grow-
 ing higher upon the Noise of a Peace, negotiated in *France*,
 and the late Prolongation of the Parliament, the King
 thought fit by Proclamation to anticipate the Meeting
 thereof, by appointing it on the 15th Day of *January*;
 making a Shew as if he resolved to enter into the War, for
 which the Parliament seemed impatient, whenever the King
 appeared averse to it, and grew jealous of some Tricks
 whenever the Court seemed inclined to it. However, the
 King was sure of obliging them in the particular of the late
 Marriage of his Neice; the News of which Marriage at
Nimeguen, gave the Confederates great Hopes that His Ma-
 jesty of *England* would now declare in their Favour. But it
 had a different Effect in *Holland*, particularly in *Amsterdam*;
 and tho' it had been generally received with great Satisfac-
 tion, yet in a little time the *French* Emiffaries found Means
 to raise Jealousies of the Measures concerted between the
 King and the Prince upon this new Alliance, as dangerous to
 the Liberty of their Country; and to make it believed, that
 by this Match the King and the Duke had wholly brought
 over the Prince to their Interest and Sentiments; when in
 reality, the Prince went away possessed of having drawn
 them into his; tho' they were equally mistaken. But how
 different soever their Apprehensions abroad might be of
 Things, at Home the King waved his Engagements to the
 Prince of entering into the War with the Allies, in case of
 no direct and immediate Answer from the King of *France*;
 and contented himself with sending Mr. *Thynne* over into
Holland with a former Draught of an Alliance to be made
 with the *States-General*, in order to compel *France* and *Spain*
 into the Compliance of the Scheme agreed on; and to con-
 sign the same into the Hands of *Hyde*, then at the *Hague*.
 Accordingly the Treaty was signed on the 16th of *January*,
 1676 7. C c tho'

Anno 30 Car. II. 1676-7. tho' not without great Difficulties, and much Dissatisfaction on the Part of the Prince of *Orange*; who had yet the small Comfort to be covered in it by the private Consent of the *Spanish* Minister there, in behalf of his Master; so that the War could not break out but upon *France*, in case of their Refusal.

We are now arrived at the 30th Year of this King's Reign, a Year, upon the Account of domestic Affairs, more remarkable and tumultuous than any since the Restoration. It began with a further Continuation of the Sixteenth Session of the second and long Parliament. By way of Preparation to this Meeting, his Majesty thought fit to do some Things terrifying as well as popular, to shew his Authority as well as his Clemency, in suppressing Libels and seditious Discourses, which very much increased about this Time. Particularly the Dangers of Popery, and the Advances of the Popish Interest at Court, were so boldly represented by Mr. *Andrew Marvel*, in his *Account of the Growth of Popery*, &c. that his Majesty caused an Order to be published in these Words: 'Whereas there have been lately printed and published several seditious and scandalous Libels against the Proceedings of both Houses of Parliament, and other his Majesty's Courts of Justice, to the Dishonour of his Majesty's Government, and the Hazard of the public Peace: These are to give Notice, That what Person soever shall discover unto one of the Secretaries of State, the Printer, Publisher, Author, or Hander to the Press, of any of the said Libels, so that full Evidence thereof may be made to a Jury, without mentioning the Informer; especially one Libel, entitled, *An Account of the Growth of Popery*, &c. and another, called, *A seasonable Argument to all Grand Juries*, &c. The Discoverer shall be rewarded as follows: He shall have fifty Pounds for such Discovery, as aforesaid, of the Printer, or the Publisher of it from the Press; and for the Hander of it to the Press, one hundred Pounds, &c.'

Order against Mr. Marvel's Account of the Growth of Popery, a seasonable Argument, &c.

Parliament meets.

Thus prepared, on the 15th Day of *January* both Houses of Parliament met according to Adjournment, after a Recess or Interval of a little above seven Months. But, before they began any Business, the King sent them this following Message: 'That his Majesty had Matters of very great Importance to communicate to both Houses, in order to the Satisfaction of the late Addresses for the Preservation of *Flanders*. But it so happening, that Matters are not so ripe as within a few Days they will be; therefore his Majesty's Pleasure was, that they should be immediately adjourn'd till *Monday* the 28th of this Instant *January*.' When his Majesty made a Speech

to

to both * Houses, which is to be found in CHANDLER's *Hist.* Anno 30, Car. Anno 29 Car. II. 1677, Page 272.

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All this Time, and for above a Year; the Earl of *Shaftsbury* was kept a close Prisoner in the *Tower*, for an Offence said to be of a high Nature, as was formerly mentioned. After he had continu'd many Months, and finding his Petitions rejected for want of a formal Recantation of his Crime, he had Recourse to the *King's Bench*, whither he was brought by a *Habeas Corpus* on the 27th of *January*, where Mr. *Williams*, Mr. *Wallop*, and Mr. *Smith*, his Council, argued that the Court ought to relieve him; and the Earl spoke himself with great Reason and Eloquence for the Liberty of the Subject, and his own Discharge. Yet the Judges deny'd him Redress, one of them declaring before the Cause was heard, *That the Court could not help him*; and so the Earl was remanded to Prison. This Application to an inferior Court was soon taken Notice of by the Lords, who voted it a Breach of Privilege, for which the Earl was to answer his Contempt at the Bar of the House. On the 22d of *February* he was accordingly brought to the Bar, where he offer'd to acknowledge his asserting this Dissolution of the Parliament to be an unadvised Action, and to beg their Lordships Pardon for his Offence in bringing his *Habeas Corpus*. Soon after the House proceeded to a Remission and Acknowledgment in a Form prescribed by that House, without which he was to expect no Release. This, tho' a Mortification to a high Spirit, the Earl was forced to submit to: Accordingly the Lord Chancellor read the following Words to him, while the Earl, kneeling, repeated them at the Bar. *Ld. Shaftsbury's Submission.*

1st, I do acknowledge, that my endeavouring to maintain that the Parliament was dissolv'd, was an ill-advised Action; for which I humbly beg Pardon of the King's Majesty, and this most honourable House. 2dly, I do acknowledge that my bringing a Writ of Habeas Corpus in the King's-Bench, was a high Violation of your Lordships Privilege, and a great Aggravation of my former Offence; for all which I beg Pardon. Having both repeated and subscrib'd this Recantation, the House order'd the Lords with White Sticks to acquaint his Majesty, 'That they had received Satisfaction from the Earl of *Shaftsbury* in the Matter of the *Habeas Corpus*, and the other Contempt, and pray'd him to discharge the said Earl from his Confinement.' Accordingly the Earl was released, after an Imprisonment of about thirteen Months, And Release. and the next Day sat in the House of Lords, where he soon found Opportunities of shewing his just Resentments.

C c 2

About

* See a Remark of Echard's on this Crisis, CHANDLER's *Hist.* Anno 30 Car. II. 1677-8, Page 274.

Anno 30, Car.
II. 1677.

Two Adjourn-
ments.

And a Proroga-
tion.

About this Time the Progress of the *French* Arms in the *Spanish Netherlands* gave such an Alarm to the Kingdom, that the Commons desired the Concurrence of the Lords to an Address that his Majesty would immediately declare War with *France*; but their Lordships making no Haste to join in it, the King came to the House *March* the 20th, pass'd those * Bills which were ready for the Royal Assent, and required both Houses to adjourn to *April* the 11th; when they again adjourn'd, by his Directions, to the 29th;

At which Time the Lord Chancellor *Finch*, in his Majesty's Name, among other Things, informed both Houses, that the *States* were negotiating a separate Peace with *France*, and demanded their Advice as to his Proceedings thereon: But the Commons passing certain disagreeable † Votes, the King came to the House of Peers, *May* the 13th, and put an End to the Session, by a short Prorogation of Ten Days.



[During this last Session of Parliament, and since the passing of the Poll-Bill, within six Weeks Time, the King had raised an Army of above twenty thousand Men, the most compleat, and, in all Appearance, the bravest Troops that could be seen in any Place; and might have raised many more upon so great a Concurrence of People's Humour with his Majesty's seeming Design of entering into a War against *France*; and it was acknowledg'd by all the foreign Ministers, That no King in Christendom could have made and compleated such a Levy as this appeared, in so short a Time. And now his Majesty's Resolutions appeared entirely for War, when, before the Parliament broke up, there came Letters from Mr. *Hyde*, and Mr. *Godolphin*, That *Holland* absolutely desired the Peace, even upon the Terms proposed by *France*, and had resolved to send Monsieur *Van Lewen* into England, to dispose the King to be contented with them. Upon his Arrival the King immediately sent Sir *William Temple* to know his Errand. He was the Chief of the Town of *Leyden*, and had joined with *Amsterdam*; and some other Places, on promoting the Peace; but, being a Man of great Honour and Worth, and having come upon Suspicion that *England*, at the Bottom, was still in with *France*, and that all the rest was but Amusement; the Prince of *Orange* had procured him to be sent over purposely to satisfy himself, and his Accomplices for the Peace, that the King's Intentions were really for the War, which his Highness thought

* CHANDLER'S Hist. Anno 30 Car. II. 1678, Page 276.
† Ibid, 277.

thought the only Means to prevent the Peace. He freely told Sir *William Temple*, ' That nothing was more against their Inclinations in *Holland*, than to make a Peace upon Terms so low and unsafe for *Flanders*; and that if the King had gone into the War, as was promised, upon *France's* delaying to accept the Scheme, they would certainly have continu'd it : But his Majesty's Proceedings look'd ever since so uncertain or unresolv'd, that it had rais'd Jealousies in *Holland*, of the *English* Measures being, at the Bottom, fixed with *France*; which made most of the Towns in *Holland* think they had nothing left to do, but to go in with them as fast as they could; and the Approach of the *French* Army to *Antwerp* left them no Time to deliberate : ' Yet he profess'd to Sir *William*, in private, *That if the King would immediately declare the War, he believ'd the States would still go on with it, in pursuit of their Alliance, and the Terms contained in it.*

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Sir *William* made this Report to the King, who now was just ready to declare War, if the Parliament would support it; when on a sudden happened the forementioned cross Vote in the House of Commons, which shewed there was such a mutual Distrust, both in the Court and Parliament, as it was very hard to fall into sound Measures between them. The King, at least, saw, that he had now lost his Time of entering into the War, and that he ought to have done it with the whole Confederacy, upon the Return of the Lord *Duras* from *France*. But the witty Turn that his Majesty gave all this, was, *That since the Dutch would have a Peace upon the French Terms, and France offered Money for his Consent, to what he could not help, he did not know why he should not get the Money*; and thereupon ordered Sir *William* to treat with Monsieur *Barillon*, the *French* Ambassador at *London*; but Sir *William* found Means handsomely to decline a Treaty, which, he said, *belong'd not to his Post*. At the same Time the Heats in the House of Commons much increased the ill Opinion the King had conceived of their Intentions in pressing him to enter upon a War. Yet, notwithstanding all this, he had conceived such Indignation at one Article of the private Treaty, propos'd by the *French* Ambassador, that he said, *He would never forget it while he liv'd*. Sir *William*, who tells us he had it from a good Hand, leaves us, however, in the dark, as to that secret Article; But the Publisher of his Letters, Dr. *Swift*, acquaints us with that remarkable Passage, namely, *That France, in order to break the Force of the Confederacy, and elude all just Conditions of a general Peace, resolv'd by any Means to enter into separate Measures with Holland*; to which end it was absolutely

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II. 1677.

lutely necessary to engage the good Offices of the King of England, who was look'd upon as the Master of the Peace, whenever he pleas'd. The Bargain was struck for either three or four hundred thousand Pounds : But when all was agreed, Monsieur Barillon, the French Ambassador, told the King, That he had Orders from his Master, before Payment, to add a private Article, by which his Majesty should be engaged, *Never to keep above eight thousand Men of standing Troops in his three Kingdoms.* This unexpected Proposal put the King in a Rage, and made him say, *Codfish ! Does my Brother of France think to serve me, thus ? Are all his Promises to make me absolute Master of my ----- come to this ? Or does he think that a Thing to be done with eight thousand Men ?*

Tho' the King said nothing to Sir William Temple of his Repentment, yet he observed his Majesty to be at this Time more resolv'd to enter into the War, than he had ever before seen, or thought him. In the mean time young Monsieur Rouvigny, who was dispatch'd into France, to know the last Intention of that Court, being returned without any clear or positive Answer ; the King proceeded to compleat his Levies, and to prepare for War : But this again was defeated by the Prorogation of the Parliament ; and Monsieur Van Leuwen, the Dutch Agent, distressed with these Delays, and the Counter-Paces between King and Parliament, began to talk freely of the Necessity his Masters found to make the Peace as they could, since there was no relying upon any Measures with England for carrying on the War ; and the Season was too far advanced to admit of any longer Delays. Upon these Discourses from him, the King began again to cool in his Talk of a War, and to say, *The Peace must be left to the Course which Holland had given it.* And tho', at the next Meeting of the Parliament, the Commons seem'd in a much better Temper than they parted ; yet News coming about the same Time, that Monsieur Bœvering was sent by the States-General to the French Court at Ghent, to propose a Cessation of Arms for six Weeks, in order to negotiate the Terms of the Peace ; both the Court and Parliament began to look upon it as a Thing concluded, or at least, as like to receive no other Motion than what should be given it by Holland and France. And indeed the Dispositions were so inclined to it on both Sides, that the Terms were, in no long time, adjust'd between them.]

The

The SEVENTEENTH SESSION of the Second Parliament.

THE 23d of May, the King made a Speech to both Houses from the Throne; and a long Amplification was added by the Lord Chancellor *Finch*, both of which are to be found in *CHANDLER'S Hist. Anno 30 Car. II. 1678, Page 281, 282, 383*, as is likewise the Account of a Conference between the two Houses on a Message from the King to the Lords on certain Advices from *Nimeguen*, Page 287, as also Page, 288, 289, of a second and a Third, on certain Amendments made by the Lordships to a Money-Bill.

To which we have only to add the following Protests; as containing all the public Business relating to the Lords, to be met with during this * Session.

Protests of this Session.

Die Veneris 7^o Junii, 1678.

This Day being appointed to debate the Business of the Claim to the Petitioner that claims the Title of Viscount *Purbeck*, the Title of Viscount *Purbeck* House took into Consideration in what Method to proceed therein, whether upon the whole Matter together, or divide it into Parts.

And the Question being put, Whether to proceed in this Case upon the whole Matter?

It was resolved in the Affirmative.

Before the Question was put for proceeding in the Case of Protest thereon the Claim for the Title of Viscount *Purbeck*, Leave being asked and granted to enter Protests, if it was carried in the Affirmative;

* Towards the latter End of June, the Dutch being on the Point of striking up a separate Peace at *Nimeguen*, the French insisted on detaining the following Towns, Ghent, Aeth, Charleroy, Audenarde, Courtray, and Limburgh, till Restitution had been made to the Swedes of all they had lost during the War: Of which the King (Charles) being apprized, and greatly alarm'd at it, both Sir William, and Van Lewen, the Dutch Ambassador here, were dispatch'd to the Hague: And, in the Space of six Days after their Arrival, the famous Treaty of Alliance between England and Holland was happily concluded on the 26th of July, to the general Satisfaction of the Dutch Commissioners; who, at the first Conference, made Sir William the Compliment, That they esteem'd his coming into Holland, like that of the Swallows, which always brought fair Weather with them. And it is observable, that Mr. Godolphin, who had been so lately in Holland, told Sir William before his Departure, That if he brought the States to conclude the Treaty his Majesty propos'd, he would move the Parliament to have his Statue set up.

On

Anno 30, Car. Affirmative ; we accordingly do enter our Dissent, because
 11. 1678. there being three Points arising from the Debate of the
 Case ;

The first of Illegitimacy ;

The second concerning the being of a Patent of Honour, which are Matters of Fact, and ought to be determined before the Point of Law, which is the third Point, concerning the extinguishing of Honour by a Fine ; which by this House, in a full Assembly, hath been adjudged (*nemine contradicente*) cannot legally be done ; and that we cannot, upon complicated and accumulative Questions, give a Resolution ; nor hath the Practice been so, but upon the Case agreed, or single Propositions, except where the House is unanimous in Judgment ; whereas in this Case they appear yet much divided.

Oxford, Northampton, Anglesea, Winchester, Huntingdon, Clare, J. Bridgewater, Shaftsbury, Bedford, Tho. Culpeper, Bath.

Die

On the communicating the Treaty to France, all the Arts imaginable were practised, on that side, to elude it ; particularly by drawing the Matter into a Negotiation, or, at least, a greater Length ; which before had so well succeeded in England ; But the States continued resolved not to recede from their last Treaty, and were immoveable, till about five Days before the Expiration of the limited Time ; when the Arrival of a certain Person in Holland gave a new and strange Turn to the whole Affair. This was one De Crofs, an inferior and busy Agent of Sweden, who came from London, with Orders from his Britannic Majesty for Sir William Temple immediately to repair to Nimeguen, and to use his utmost to persuade the Swedish Plenipotentiaries, to let the French there know, ' That they would, for the Sake of Christendom, consent, and even desire the King of France no longer to defer the Evacuation of the Towns, and consequently the Peace ; and to assure the said Swedish Ambassadors, that after this Peace the King of England would use all the most effectual Endeavours he could, for the Restitution of all the Towns and Territories the Swedes had lost in the War.' Sir William was extremely surprized at this new Dispatch ; but Pensionary Fagel, being as it were Thunder-struck, went and told his Excellency the whole Contents of it, before he had mention'd it to any Man ; and particularly, ' That De Crofs had most industriously gone about to the Deputies of the several Towns, and acquainted them with it ; and that the Terms of the Peace were absolutely agreed between the two Kings ; that he brought Sir William Temple Orders to go strait to Nimeguen, where at his Arrival he should meet with Letters from the Lord Sunderland, the English Ambassador at Paris, with all the Particulars concluded between both their Majesties.

How this strange Dispatch by De Crofs was gained, or by whom, was never certainly known : But upon Sir William's Return into England, the Duke of York told him, That he knew nothing of it till it was gone, having been a hunting that Morning. The Lord Treasurer said all that could be to excuse himself of it ; but the King indeed told him pleasantly, That the Rogue De Crofs had outwitted them all. The Truth is, these Orders seemed to be the Result of French Intrigues and Management ; being agreed and dispatched one Morning in the Dutchess of Portf-

*Die Jovis 20^o Julii, 1678.*Anne 30, Car.
II. 1678.

The Lords proceeding this Day, which was appointed, to give Judgment in the Case concerning the Claim and Right of *Robert Viscount Purbeck* to that Title of Honour, to them referred by his Majesty; and three Questions being, after Debate, propounded as follow:

1. That the Petitioner hath Right, by Law, to be admitted according to his Title.

2. That this Question shall be now put.

3. That the King shall be petitioned to give Leave that a Bill may be brought in to disable the Petitioner to claim the Title of *Viscount Purbeck*.

And Leave being asked and given, before the putting of the said Questions, to any Lords to enter their Dissents and Protestations to them, if they, or any of them, were resolved in the Affirmative, as the second and last were; we whose Names are underwritten, do accordingly protest against the said Resolutions, for the Reasons following:

1st, The Lords being in Judgment, as the highest Court of *England*, in a Case referred to them by his Majesty, (and whereof they are the only proper Judges) concerning the Right of Nobility claimed by a Subject that is under no Forfeiture, and wherein their Lordships had, in part, given Judgment before, that he was not (nor could be) barred thereof by a Fine and Surrender of his Ancestor; it was, as we humbly conceive, against common Right and Justice, and the Orders of this House, not to put the Question that was propounded for determining the Right.

2^{dly}, The said Claimant's Right (the Bar of the Fine of his Ancestor being removed) did, both at the Hearing at the
1678. D d Bar,

Portsmouth's Chamber, by the Intervention of Monsieur Barillon, the French Ambassador. Yet by one of the Lord-Treasurer Danby's Letters to Sir William Temple, dated August the 12th, it appears that the King was much displeased at De Crofs's Proceedings; in which are these Words: 'You will find that Mr. Hyde is no less empower'd to give Satisfaction about Monsieur De Crofs, who was so far from having any sort of Commission from the King, that if the Pensionary will permit any thing to be proved against him of these private Discourses, which you say you had from the Pensionary, his Majesty will make him a public Example, for the Satisfaction of himself, as well as the rest of the World.' However it was, and what Endeavours soever were made immediately after, at the Court of England, to retrieve this false Step, it never could be done; and this one Incident changed the whole Face of Christendom, which shews that the greatest Councils and Resolutions often turn upon the smallest Motions and Accidents: For August the 11th, N. S. the French Ministers, who had lately been wholly upon the Reserve, thought fit to yield to the Evacuation of the Towns, and applied themselves with so much Dexterity, that before Twelve that Night they gained the great Point for their Master's Interest and Advantage, and secured the separate Peace with the States of the United Provinces.

Second Protest
on the Claim
of the Title of
Purbeck.

Anno 30, Car. Bar, and Debate in the House, appear to us clear in Fact and
II. 1678. Law, and above all Objections.

3^{dly}, His said Right was acknowledged even by those Lords, who therefore opposed the putting of the main Question for adjudging thereof, and carried the previous Question (that it should not be put) because, in Justice, it must inevitably (if it had been put, have been carried in the Affirmative, and his Right thereby allowed.

4^{thly}, By putting and carrying the third Question concerning Leave to bring a Bill to bar him, his Right to the said Title is confessed, for, he cannot be debarred of any Thing which he hath not a Right to; and this renders the Proceedings in this Case contradictory and inconsistent.

5^{thly}, The petitioning the King to give Leave for such a Bill to be brought in, is to assist one Subject, viz. the Duke of *Buckingham*, against another, in Point of Right, wherein Judges ought to be indifferent and impartial.

6^{thly}, This way of proceeding is unprecedented, against the Law and common Right, as we humbly conceive, after fair Verdicts, and Judgments in inferior Courts upon Title of Lands, which have long been in Peace, and vested in the Claimer by Descent, without Writ of Error brought, or Appeal, to suffer the same to be shaken or drawn in Question by a Bill.

7^{thly}, This way by Bill, in a Case of Nobility, is to admit the Commons with us into Judicature of Peers.

8^{thly}, It is to make his Majesty Party in a private Case against a clear legal Right, to anticipate and pre-engage his Judgment in a Case, carried upon great Division, and Difference of Opinion in the House, and forestalls his Majesty's Royal Power and Prerogative, which ought to be free, to assent or dissent to Bills when they shall be tendered to him by both Houses.

9^{thly}, After so many Years Delay to give no Answer to his Majesty's Reference, nor Judgment in the Claimer's Case, is a way, in which the Kings of this Realm have not been heretofore treated, nor the Subjects dealt with.

10^{thly}, We conceive this Course, in the Arbitrariness of it, against Rules and Judgments of Law, to be derogatory from the Justice of Parliament, of evil Example, and of dangerous Consequence both to Peers and Commoners.

Oxford, Hunsdon, Lawarr, Danby, Anglesea, Tho. Culpeper, Northampton,

Die Martis 9^o Julii, 1678.

Petition to the
King touching
the Claim to
Viscount Purbeck, agreed to.

The Petition reported formerly by a Committee, to be represented to his Majesty, that he would give Leave to bring in a Bill to disable the Petitioner from claiming a Title

to

to Viscount *Purbeck*, was read, and some Amendments Anno 30, Caro.
made therein. II. 1678.

And the Question being put, Whether this Petition, thus amended, shall be presented to the King?

It was resolved in the Affirmative.

Dissentient Anglesea and Northampton:

Protest thereon.

For these Reasons: 1st, That this is a Transition from our Judicature in a Case of Nobility, wherein the Lords are sole Judges, to the Exercise of the Legislature, wherein the Commons have equal Share with us, and admits them Judges of Peerage, which I conceive ought not to be, if he be a Peer, as seems implied by proposing a Law to bar his Title; and there is no need of a Law, if he be no Peer.

2^{dly}, If a Bill come in, the Case must be heard again, and then Judgment ought to be given, which (if against him) the Commons must credit upon the Proofs made here, where only Witnesses are sworn; and therefore Judgment here ought to be final.

3^{dly}, This Petition is no Answer to his Majesty's Reference, and we leave him in Uncertainty, when he asks our Opinion; or desired the Royal Assent to nothing, if he hath no Title to be barred.

4^{thly}, If the Commons should reject a Bill sent to them, they establish him a Peer, by judging it injurious to bar him by a Law, and so would seem more tender of Peerage than we.

5^{thly}, Leave is asked of his Majesty to bring in a Bill, when every Peer has Right to do it in this Case, if he conceive himself aggrieved by a false Claim of Honour; and therefore several Lords have been admitted Parties against him upon former Hearings, and Judgments given, in part, for him by a Vote, that he is not barred by the Fine of his Father.

6^{thly}, It seems against common Right to bar any By bill, who claims a legal Title, without Forfeiture be in the Case, and if so, there needs no Bill.

Memorandum, These six Reasons are written by the Lord Privy-Seal's (*Anglesea*) own Hand.



The EIGHTEENTH SESSION of the Second Parliament

WAS open'd *Otober* the 12th, 1678, at which Time the whole Nation being under terrible Agitations on Account of the Popish Plot, and a great Part of the Business of both Houses turning thereon, it may not

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be

Anno 30, Car.
II. 1678.

Account of the
Popish Plot.

be improper to insert in this Place the Heads of the said Plot by way of Introduction.

The Design in general, it was said, was by Fire and Sword, when all other Means failed, to subvert the established Government and Religion of these Kingdoms, and to reduce the same to Popery, so as no Toleration should be given to any Protestants, but all to be extirpated Root and Branch.

The then Pope, *Innocent* the Eleventh, Cardinal *Howard*, great Numbers of Priests and Jesuits of all Nations, the Lords *Arundel*, *Powis*, and *Bellasis*, Sir *William Godolphin*, Sir *Francis Ratcliff*, Mr. * *Lambert*, Mr. *Langborn*, and Mr. *Coleman*, the Duke of *York's* Secretary, were named among the Conspirators, and mention was made even of the Queen and his Royal Highness.

Next they tell us the Means whereby they resolved to accomplish this vast Undertaking, which were as follows :
1. By killing the King, finding they could not work him to their Designs ; and therefore to remove him, they formed several distinct Plots, and all to be kept unknown to each other : As first, *Grove* and *Pickering* to shoot him ; secondly, *Conyers* and *Anderton*, Benedictine Monks, and four *Irish* Ruffians, to stab him ; and thirdly, Sir *George Wakeman*, the Queen's Physician, to poison him ; for which Purpose five thousand Pounds were enter'd in their Books, as paid to him in Part of fifteen thousand Pounds Reward, when he had finish'd the Work. As for the Duke of *York*, they concluded to make use of his Name and Interest, if he would comply with these Conditions ; First, To accept of the three Kingdoms as a Gift from the Pope, and hold them in Fee of him, and confirm their Settlement of Church and State : Next, If he would exterminate all Protestants ; and lastly, If he would pardon the Murderers of his Brother, the Murderers of the People, and those who should fire the remaining Part of the City and Suburbs. 2. For that was the second Particular of their Work, to fire *London* and *Westminster*, and the adjacent Places ; as also other the chief Cities and Towns of *England*, immediately on the killing of his Majesty ; and then lay the whole Load, both of the Murder and Firing, on the Presbyterians and Fanatics, thereby provoking the episcopal Men to join with them to cut them off ; that so Protestants being weakened by their own Fewds, might have the better Opportunities, and easier Task, to subdue them all. 3. By a general Massacre ; to which Purpose they are said to have formed an Army, consisting

* The famous General Lambert, who had been a Prisoner ever since the Restoration.

fisting of fifty thousand Men to be list'd about *London*; the Officers all resolute Papists, and for the most part *French* and *Irish*. These, they gave out, *were enow to cut the Throats of one hundred thousand Protestants*; especially being taken upon a Surprize, when the Militia of *London* were unprovided and undisciplin'd, and the Country generally disarm'd, as aforesaid. And besides, the Conspirators had of the *French* ten thousand Soldiers from *Flanders*, and thirty thousand Pilgrims and Lay-Brothers daily expected from *Spain*, to assist them.

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II. 1678.

4. In *Ireland*, the Pope had made *Talbot*, the Titular Archbishop of *Dublin*, his Legate, to take Possession for him of that Kingdom; whose Brother was to be General of all the Forces there, consisting of seventy thousand Papists, besides the *French* Auxiliaries. There it was to be carry'd on by a general Rebellion and Massacre of the Protestants, as in 1641, which they called *Demonstrating their Zeal for the Catholic Faith*. Four Jesuits had undertook first to assassinate the Duke of *Ormond*; and the better to carry on the whole, the Pope was to contribute eight hundred thousand Crowns, and the *French* had privately sent over some Supplies of Men and Arms, and were to furnish them with more, as soon as they should be in Action; *Le Chefs* having a great Influence in promoting all these Transactions.

5. Moreover in *Scotland*, particular Care was taken to foment Discontents, and raise a Rebellion; to which end, they, at proper Times, sent over several Jesuits, to mingle themselves, if they could, with the Dissenters, so as they might preach in their Field Meetings, and enflame them to take up Arms to vindicate their Religion and Liberty against the supposed Invaders of both; and which they were to aggravate, as well as the Complaints against Episcopacy. And for their Encouragement, the Papists there were to raise eight thousand Men to join with such Dissenters, lest they should be too weak to oppose the Government; by which they should have the Advantage of a double Stroke, make a wide Difference between Protestants, and cast the old Odium of Rebellion upon the Presbyterians, if it should not, or destroy the Government, if it should succeed.

The Evidences to support all these Particulars were at first only *Titus Oates* and *Dr. Tongue*; *Bedloe*, *Prance*, *Dugdale*, *Everard*, and others, appearing afterwards either in Hope of Reward, saith *Echard*, or Fear of Punishment.

But *Coleman's Letters*, and the Murder of *Sir Edmundbury Godfrey*, seem'd to have weigh'd more with the Public than either the Narratives or Depositions of these Men.

Saturday, Oct. 12, was the last Day that unhappy Gentleman was seen by any of his Friends. *Thursday* the 17th, he was found in a Ditch near *Primrose-Hill*, in the Way to *Hampstead*,

Annæ 3^o Car.
II. 1672.

Two Proclama-
tions relating to
Sir Edmundbury
Godfrey's Mur-
der.

with his own Sword run thro' his Body, having been first strangled, but not rifled of any thing: And the 20th, the King, by Proclamation, commanded all his Officers and Subjects to use their utmost Diligence to discover the Murderers of Sir *Edmundbury Godfrey*; and particularly, his Majesty was graciously pleased to promise to any Person or Persons, who shou'd make such Discovery, whereby the said Murderers, or any of them, should be apprehended, the Sum of five Hundred Pounds, which should be immediately paid upon sufficient Testimony, that such Person or Persons were or was guilty of the said Murder: And if any one of the Murderers should discover the rest, whereby they, or any of them, should be apprehended, such Discoverer should not only be pardoned his Offence, but should in like manner receive the like Reward of five Hundred Pounds. This not having any open Effect, upon Suggestion that there were People that would come in to discover the Murder, if it were not for the Danger of being murdered themselves in Revenge, his Majesty was pleased to publish a second Proclamation four Days after, in which he signified, and on the Word of a King promised, That if any Persons should speedily make such Discovery to one of his principal Secretaries of State, he should not only receive the five Hundred Pounds, and Pardon promised by his late Proclamation, but his Majesty would take such effectual Courses, for the Security of such Discoverer, as he should in Reason propose. This Encouragement did not only produce Discoverers of the Murder, but likewise new Discoveries of the Plot, both which in a little time fell gradually into a perfect Union and Coalition.

The Plot com-
municated to
Parliament by
the King in his
Speech.

And such was the State of the Nation, when the Parliament met according to Prorogation, on the 21st, which was the last of the Second and Long Parliament in this Reign. The King was very unwilling that the Parliament should take any Notice or Cognizance of the Plot; yet he knew not how to forbear mentioning a Matter that had raised such a general Amazement and Abhorrence in the Nation: He, therefore, contented himself with just touching upon it as follows: ' I now intend to acquaint you (as I shall always do with any thing that concerns me) that I have been informed of a Design against my Person by the Jesuits, of which I shall forbear any Opinion, lest I may seem to say too much or too little: But I will leave the Matter to the Law, and in the mean time will take as much care as I can, to prevent all manner of Practices by that sort of Men, and of others too, who have been tampering in a high Degree, by Foreigners, and contriving how to introduce Popery amongst us.'

For

For the rest of this Speech, as likewise the Lord Chancellor *Finch's*, which follow'd it, see CHANDLER's *Hist. Anno 30 Car. II. 1678, Page 291, 232, 293, 294, 295, 296.* Anno 30, Car II. 1678.

'Tis observable the King had given express Commands to his prime Minister, the Lord-Treasurer *Danby*, not to make any Discoveries to the Parliament. But that Lord, perhaps expecting that the Horror of the Thing might rouse the Affection of the Commons, and make them in a more giving Temper, or perhaps to ingratiate himself where he had many desperate Enemies, thought fit the first Day to bring *Oates's* Informations before their * House.

But the Consequence of which were two joint Addresses from both Houses, to be found in CHANDLER's *Hist. Anno 31 Car. II. 1678, Page 296, 297, 298*, as in the following Page are likewise the Account of several Conferences between the two Houses; and many other curious Particulars relating to this mysterious Period of our History, taken from the Journals of Parliament, and never printed before.

October 28, the following Address was agreed to and printed by the White-staff Lords: Lord's Address.

WE your Majesty's most dutiful and loyal Subjects, the Lords Spiritual and Temporal in Parliament assembled, considering the Danger your Majesty's Royal Person is daily expos'd to by the great Resort to your Palace, and the Parts adjoining, where you are pleas'd to entertain yourself of Persons heretofore not admitted to the Liberty; and reflecting upon the wicked Conspiracies and villainous Designs of the Papists lately discovered, do in most humble manner beseech your Majesty to give effectual Orders, that the following Points, within and without your Royal Palace, may, for the Preservation and Safety of your Royal Person, be duly and exactly observed.

1st, That

* Upon this the King was very much provok'd, and told him plainly, That tho' you do not believe it, you shall find that you have given the Parliament a Handle to ruin yourself, as well as to disturb all my Affairs; and that you will live to repent it. This he found to be true, and made him afterwards acknowledge, That he had liv'd to find Kings to be true Prophets, as well as Kings; having seen many villainous Designs acted under the Cover of the Popish Plot. To finish and make an End of the envy'd State of this great Minister, soon after, the Dutchess of Portsmouth and Earl of Sunderland joined with the Earl of Shaftsbury and Duke of Monmouth in the Design of his Ruin. And tho' the King thought fit afterwards to protect him by a Pardon, from the Commons Impeachment; yet this appear'd more to screen his own, than to preserve his Minister's Reputation; and he seem'd never after to have any great Favour or Affection for this great and active Statesman.

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‘ 1st, That all possible Care be taken to hinder all Papists from coming to Court, excepting only the menial Servants of the Queen and Duchesse, allowed by the Articles of Marriage.

‘ 2^{dly}, That the like Care be taken that all such as are employed in your Majesty’s Guards receive the Sacrament of the Lord’s Supper, and take the Oaths and Test enjoined by Law; and that a Reward be offered in such manner as your Majesty shall think fit to those who shall discover any, who, having taken the Sacrament and Oaths afore said, have since turned, or hereafter shall turn Papist, or hear Mass.

‘ 3^{dly}, That like Care be taken that no Papist be employed in the Preparation of your Majesty’s Diet of any kind whatsoever.

‘ 4^{thly}, That like Care be taken concerning the numerous Resort of your Majesty’s Subjects to the Chapel of *Somer-set-House*, and to the Chapels of Ambassadors and foreign Ministers; and that the Chapel of *St. James’s*, lately used for Mass, being so separated from your Majesty’s Palace there, as that Access to it cannot be prejudicial to your said Palace, may be used for the Ease of the Parish of *St. Martins in the Fields* for the Service of God, by the Use of the Liturgy of the Church of *England*, and Preaching there.

‘ 5^{thly}, And because there is usually a great Concourse of mean and unwarranted People frequenting your Majesty’s privy Galleries, and privy Lodgings and Rooms adjacent, that your Majesty be graciously pleased to cause a severe Restraint to be made thereof, and none admitted there but such as your Majesty shall be pleased to qualify thereunto; and in order thereunto, to cause the Officers of your Household to wait in their proper Stations; that the Locks of the Doors of your Majesty’s Palace be changed, the Keys delivered to none but such only as shall be given them by the Lord Chamberlain, according to a List signed by your Majesty; that all Persons forbidden, as abovesaid, be made to abstain from following your Majesty in *St. James’s Park*, and that all the private Doors there be walled up.

‘ And generally that the Rules and Orders of your Household, established in your Majesty’s Royal Father’s of blessed Memory, be strictly observed, or with such Variations as your Majesty, in your great Wisdom, shall be pleased to think fit.’

Coleman’s Examination reported.

The 29th, the Lord-Treasurer (*Danby*) having reported the Particulars of an Examination of *Coleman*, in which several Papers were mention’d, a Question was proposed, Whether

ther the said Papers should be communicated to the Com-^{Anno 39, Car.}mons, presently, at a Conference in order to the joint Ad-^{II. 1678.}vice of both Houses: But the previous Question being put, it passed in the Negative without a Division. Upon which the Lords *Effex* and *Shafsbury* desired Leave to enter their Protest, and did accordingly, though without assigning any Reason for the same.

The * 30th, *Titus Oates* having signified to the House, *Titus Oates* viz- that he desired to be heard, in order to the clearing certain dicates the Duke Aspersions thrown upon the Duke of *York*, he was admitted, of *York*. and being sworn at the Bar, he spoke to this Effect:

That he was informed that Mr. *Coleman* had highly impeached the Duke of *York*, by Letters; to which he said the Duke he thought was wholly innocent, for these Reasons:

1st, Because they (the Jesuits) have a counterfeit Seal of his and his Royal Highness's, and that he was sent into *Spain* with Credentials under the Seal: Being asked where the Seal is, he said, *It is in the Custody of Richard Strange, the late Provincial of the Jesuits; that the Party who signed his Credentials wrote [James,] but he was not then so well acquainted with the Jesuits as to know who it was.*

2^{dly}, Because, in February or March last, a Proposal was made by the Fathers at *Gant*, and that they wondered the Duke was not acquainted with it; to which, Answer was made, *Be- cause*
1678. E e

* About this Time the King order'd out a Proclamation, signifying; "The Lords and Commons having taken into their serious Consideration the bloody and traiterous Designs of the Popish Recusants against his Majesty's sacred Person and Government, and the Protestant Religion; therefore he commanded them all, except settled House-keepers that would not take the Oaths of Allegiance and Supremacy, to depart the Cities of London and Westminster, and all Places within ten Miles distant from the same." In pursuance of this Proclamation, many Papists, refusing those Oaths, went out of Town with great Lamentations, leaving their Trades and Habitations; but, within a Week or two, they generally return'd again, and, being better satisfy'd by their Leaders, ventur'd to take the aforesaid Oaths.

One great Danger of Popery at this Time was the great Number of Papists, and even of new Converts, retain'd in his Majesty's Guards; and therefore to remove the Apprehension of the Parliament, on the 2d of November, his Majesty was pleas'd to declare in Council, "That whoever shall make Discovery of any Officer or Soldier of his Majesty's Horse or Foot Guards, who, having formerly taken the Oaths of Allegiance and Supremacy, and the Test enjoined by a late Act of Parliament, for preventing Dangers which may happen from Popish Recusants, hath since been perverted to the Romish Religion, or hear Mass, such Discoverer, upon Information thereof given to his Grace the Duke Monmouth, Lord-General of his Majesty's Forces, shall have a Reward of Twenty Pounds for every Soldier or Officer so discover'd as aforesaid. And to the End his Majesty doth command that this Order be forthwith printed and published."

Anno 30, Car. II. 1678. *cause his Love was great to the King his Brother, that he would not be true to them, tho' he was a very good Catholic.*

3^{dly}, Because there was a Letter wrote to *Blundell*, saying, *They longed to see the Duke trapan'd into the Busines.*

4^{thly}, Because there was a Parcel of Letters at *Windfor* to be delivered to his Royal Highness that he might burn them, thereby to draw the Duke into the Plot: *This*, he said, *he was not certain of.* But *Meredith Lloyd* said, *They brought them to the Duke for that Purpose, and he would bring him hither to assert it.*

5^{thly}, He said, (being asked) *That he carried no Letters into Spain signed James by the Duke; but the Credentials he had to Spain with him, were signed and sealed in his Presence by the Jesuits, James, and the counterfeit Seal; so that he was received as a kind of Ambassador both as from the Duke and from the Society.*

6^{thly}, Because they have made Officers of State and War without the Duke's Privilege.*

November 9, The King came to the House, and made a Speech, which see in *CHANDLER'S Hist. Anno 30 Car. II. 1678, Page 303.*

The same Day the Lords *Gerrard* and *Butler*, who had been order'd to search *Somerset-House*, (the Residence of the Queen, whose Closet had been likewise search'd the Day before by the Earl of *Clarendon*) on certain Informations of *Bedloe's*, reported that they had searched the said House, but could find no Jesuits, or other suspected Persons. But that they had found several * Chests of Cartridges with Powder belonging to them in the House of Mr. *Chogue*, who, on Examination, declared he had prepared them for Fire-Works, on any public Occasion that might occur, &c. upon which he was discharged.

The 11th, a Conference having been desired by the Commons, it was agreed to, and reported by the Lord Chancellor, in Effect as follows:

* That the Conference was managed by Mr. *Powle*; who said, That, upon the Examination of the Clerk of the Crown, touching the Neglect in issuing out of Commissions to the Justices of the Peace, pursuant to his Majesty's late Proclamation, and the Address of both Houses, for administering the Oaths of Allegiance and Supremacy to Popish Recusants, and Persons suspected so to be: The said Clerk had inform'd the House of Commons that a Draught of such Commissions

was

* The House afterwards voted an Address to his Majesty, That he would be pleased to direct that an Order of Council should be issued, enjoining all Persons, possessed of the like Cartridges, to give Notice within a few Days of the same to the said Council.

A Conference between the two Houses in the Respect of issuing out certain Commissions.

was proposed by the Attorney-General, engross'd by the said Clerk of the Crown, and by him tender'd last *Thursday* Morning to be sealed by the Lord Chancellor; and that, nevertheless, the said Commissions neither then, nor at any Time since, to the Time of his Examination on *Saturday* last, at five of the Clock in the Afternoon, were, or have been sealed. And the House of Commons, being very sensible of the great Danger that may ensue to his Majesty and his Kingdom by such Delay, and his Lordship being a Member of your House, hath thought fit to represent it to your Lordships, desiring that your Lordship will speedily enquire into the Reason of this great Neglect and Contempt of his Majesty's Proclamation, and do therein as to Justice shall appertain.

The House then ordered to have a Conference hereupon, and the Lord Chancellor to give them a fair Account of the Matter; which was to tell them, ' * That the Lords are well pleased with the Representation made by the Commons at the last Conference; and think it a Zeal well becoming the House of Commons, to take Care that we may not be defeated of the Fruit of the late Proclamation by the Default of any Man, whatsoever he be.

' But, my Lords, do not think that any Time has been yet lost, or had been gained, if the Commissions had been issued out sooner, because there could have been no Execution of them, until the Constables return the Names of the several Popish Recusants, residing within their several Limits, which are not yet ready in any measure. Nevertheless, the Lords do not think it to be Satisfaction enough to the House of Commons, to shew that there hath been no Negligence in this Matter; but they have commanded me to shew you farther, that there hath been very great Diligence used in it: For when Commissions were preparing in general Terms, the Lords had it under Consideration what Exceptions were fit to be added to Commissions, to limit and restrain the Justices of the Peace for administering the Oaths improperly and unnecessarily.

' As for Example, the Peers are exempted by the Statute of *Quinto Elizabethæ*, from taking the Oath of Supremacy: Foreigners are exempted from taking those Oaths which the Statutes impose only upon natural Subjects: And it might be convenient, that Justices of the Peace might be kept from mistaking the Law, by the very Exception in the Body of their Commission.

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Further-

* Reported imperfectly by Mr. Powle. See CHANDLER's Hist. Anno 30 Car. II. 1678, Page 304.

Anno 3^o Car.
II. 1678.

‘ Furthermore, it was thought very severe by the Lords, that such whom Age and Infirmitie disabled to go out of Town, should therefore be obliged to take the Oath of Supremacy, or else depart, tho’ with hazard of their Lives. And since that, six Lords of the Council are trusted with giving Licences, upon prudential Considerations : And that the Lord-Chancellor, Lord-Treasurer, or one of the Secretaries, are to be one of the six to give Licences : It was also thought very severe, that Persons so licensed should be forced to take the Oaths ; and therefore my Lords thought fit that those Points should be all provided for by special Exceptions in the Commissions.

‘ These are the Reasons why the Commissions were delayed ; to the end they might be fitted according to these Directions : And therefore the Clerk of the Court told you true, that the Commissions were prepared by the Attorney, and carried to the Seal, and were refused to be sealed, tho’ he knew it only by hear-say ; but if he had attended in Court that Day, he might have been better enabled to tell you the whole Truth ; which is this : That as the Commissions were going to be sealed, Mr. Attorney, who sat by the Place where the Great Seal was working, stopp’d them from being sealed, because they were to be amended ; with which, I being acquainted, caused the sealing to be stay’d.

‘ And now, this Morning, the several Forms of Commissions being prepared, and the Lords made acquainted with it, their Lordships, upon farther Debate considering that the Proclamation issued out by the joint Address of both Houses, did not think it convenient to make any Restrictions or Qualifications of the Commissions, by the Advice of one House only : And therefore, however it might light upon some particular Persons and Cases, yet their Lordships, to preserve a good Correspondence between the Houses, which they infinitely desire to cherish, have resolved to take away all Occasion of Jealousies or Debates : And that therefore Commissions shall issue in general Terms ; which were all sealed this Morning, accordingly : And my Lords hope you have now your full Satisfaction.’

Coleman’s Letters ordered not to be printed.

The same Day three Letters of Coleman’s having been read, the Question was put, Whether they should be printed ? Upon which a long Debate ensued, and it was resolved in the Negative.

The Thanks of the House given to the Queen.

The 14th, The Thanks of the House were ordered to the Queen, for her Care and Readiness to give them Satisfaction in the late Search in *Spermet-House*.

Her Majesty’s Answer.

To which her Majesty was pleased the next Day to return the following Answer : *That her Majesty was very sensible of the*

*the Civility of the Lords to her; and that she should be extremely glad to contribute any thing on her Part to the Discovery of this horrid * Fact, and the more, because she hears it was to be done at Somerset-House at the Time she was there: That she hoped the Lords would continue their good Opinion of her, when any of her Concerns came before them, which she would be ready to deserve from them upon all Occasions.*

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The 15th, The Lord Chancellor reported, in Answer to their Address, That his Majesty would require the *Spanish* Ambassador would deliver up two of his Servants suspected of being concerned in the Plot; that his Majesty had sent Mr. Secretary *Coventry* to demand them; and that the Ambassador promised to send them when and where his Majesty pleased; expressing himself so sensibly of the Occasion upon which they were demanded, *that if he knew his own Son were engaged in it he would deliver him up.*

Noble Behaviour
of the Spanish
Ambassador.

The 19th, The Lord *Carington* having been order'd into the Custody of the Black-Rod, on the Report made to the House by the Lord Chief Justice (*Scraggs*) of an Examination, by him taken in the Speaker's Chamber, of *William Bedloe*, the Earl of *Anglesea* enter'd his Dissent.

The Lords having receiv'd a Bill from the Commons (and, while it lay before them, several Messages to remind them of it) requiring all Members of either House, and all such as might come into the King's Court or Presence, to take a Test against Popery, in which not only Transubstantiation was renounced, but Image-Worship of all Kinds was declared idolatrous; in the Debate, upon which Dr. † *Gunning*, Bishop of *Ely*, maintained the Negative, and was answer'd by Dr. *Barlow*, Bishop of *Lincoln*. His Royal Highness the Duke, deeply affected on this Occasion, mov'd for a Proviso to except himself. He spoke with great Earnestness, and with Tears in his Eyes, he said, *He was now to cast himself upon their Favour, in the greatest Concern he could have in this World;* added much of his Duty to the King, and Zeal for the Nation, and solemnly protested, that, *whatever his Religion might be, it should only be a private Thing between God and his own Soul.* Notwithstanding all which, he carried his † Point but by two Voices; and some Ladies, Attendants upon the Queen, were admitted to the same Favour.

Test against
Popery.

Bishop of Ely.
Bishop of Lin-
coln.
Duke of York.

Proviso in his
Favour.

This

* The Death of Sir Edmundbury Godfrey.

† In this Speech *Gunning* declar'd he would not take the Test with a good Conscience, yet, as soon as the Bill was past, he took it in the Crowd with the rest. BURNET, Vol. I. Page 435.

† On which Occasion the following Peers enter'd their Dissents; James (Duke of York), Norfolk and Marshal, Howard Earl of Berks, Hunston, Audley, Stourton, Cardigan, Teynham.

Anno 30, Car.
II. 1678.

King's Speech
on the Army.

This Bill was reported and finally passed *November* the 20th; and the 25th the King came to the House of Peers, and made a Speech (which see in CHANDLER's *Hist. Anno* 30, Car. II. 1678. Page 311,) relating to his Forces in *Flanders*, the Misery they were in, the Burden they had been to him, the Impossibility of his supporting them any longer, and the Necessity there was of their being continued, notwithstanding, &c. in support of which certain Memorials and Papers of the *French, Dutch, and Imperial Ministers*, were laid before the House by his Majesty's Order.

Quarrel between
the Lords Pembroke and Dorset.

The 27th, the House being informed of a Quarrel which happened lately betwixt the Earl of *Pembroke* and the Earl of *Dorset*, It is ordered, that the Gentleman Usher of the Black Rod do give Notice to the Earl of *Pembroke*, that he attend this House presently; and that Mr. *Lloyd* and the Footman be summon'd to appear presently, to give this House an Account thereof.

In the mean time the Earl of *Dorset* gave the House an Account, That on *Wednesday* last, late at Night, the Earl of *Pembroke* sent one Mr. *Lloyd*, who told him that the Earl of *Pembroke* desired of him to speak with him at Mr. *Locket's* House: The Earl of *Dorset* asked, whether the Earl of *Pembroke* was sober; and was answer'd, yes; and when his Lordship came, he found the Earl of *Pembroke* in a low Room; who told him, *That he had done him an Injury, therefore he would fight him*: The Earl of *Dorset* asked him, *Where, and when?* The Earl of *Pembroke* told him, *Now, in this Room*; and then laid violent Hands upon him; and the Earl of *Pembroke's* Footman took away his Sword from his Side; but Mr. *Lloyd* closed in and parted them, and so his Lordship got loose from him.

The Earl of *Pembroke* being come, standing in his Place, the Lord-Chancellor told him what an Account the Earl of *Dorset* had given to the House: The Earl of *Pembroke* said, *He remember'd no such Thing*; but confess'd, *he desir'd to speak with the Earl of Dorset about Business, and had no Intent of fighting*; and that the Earl of *Dorset* had two Men with him; and that his own Servant took his Sword away. The House directed the Earl of *Dorset* to relate again, in the Presence of the Earl of *Pembroke*, what pass'd betwixt them; then both these Lords withdrew themselves.

The House taking this Business into Consideration, and how much the Honour of this House was concerned therein, made the Order following:

Order thereon.

For the better Preservation of the Peace, and preventing any Mischief which may happen between the Earl of Pembroke and the Earl of Dorset, It is ordered, by the Lords spiritual and temporal,

temporal, in Parliament assembled, That the Earl of Pem- Anno 30 Car.
broke and the Earl of Dorset be and are hereby confined to II. 16. 8.
their respective Houses or Lodgings, till farther Orders; and
that they, or either of them, send not any Message, or write to
the other, during this Confinement.

The next Day they were both released, on an Intimation Made up
by the Duke of Bucks. that the Quarrel was made up.

The same Day the Earl of Clarendon, being speaking in Misunderstand-
the Debate the House was in concerning Titus Oates, took ing between the
Notice, that the Marquis of Winton said, *he lies, he lies;* of Marquis of Winton
which Words the House required the Marquis of Winton to and Earl of
give an Account: The Marquis of Winton deny'd not the Clarendon.
Word, but begg'd the Pardon of the House, that he was talk-
ing of other Things whilst the House was in Debate; and he
said, he did not intend the Words against the Earl of Clarendon,
and if he have offended the House he was sorry for it, and
begg'd Pardon for it.

Order'd, That the Marquis of Winton and the Earl of Cla- Order there
rendon do not go out of the House until the House be adjourn'd.

After which, the House laid their Commands upon the
Marquis of Winton and the Earl of Clarendon not to carry their
Resentments any farther, concerning the Business which hap-
pened that Day.

The 26th, Received an Address from the House of Com-
mons (which see in CHANDLER's Hist. Anno 30 Car. II.
1678, Page 314,) to which their Lordships Concurrence was
desired; but it passed in the Negative.

Upon which Ocaſion the Lords Clare, Shaftsbury and
Paget entered their Dissent.

The 30th, The King came to the House, and gave the King refuses to
Royal Assent to the Test-Bill against Popery, called *An Act* pass the Militia
for the more effectual preserving the King's Person, &c. of Bill even for
which he pleaded the Merit, to excuse himself from passing half an Hour.
the Militia Bill, presented at the same time; which, he said,
put the Militia for so many Days out of his Power, and that
was what he would not comply with, tho' but for Half an
Hour, &c.

The same Day the Lord Chancellor, by Intimation of the A remarkable
Duke of Norfolk, acquainted the House with a Doubt that Hint given to
was concerned in Law, that if there was not an immediate the House by
Proceeding to take the Oaths and Declaration prescribed in the Duke of
the Act, entitled, an Act for the more effectually preserving Norfolk.
the King's Person and Government, by disabling Papists from
sitting in either House of Parliament, it would be questionable
whether there would be a House of Peers on Monday to sup-
ply that Defect; and tho' the Lords were of Opinion, that
it

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it was not of absolute Necessity so to do, and that there would be no Danger of dissolving the House by omitting it; yet, nevertheless, for avoiding of all Scruples and Objections that might otherwise be made, some of their Lordships did immediately take the said Oaths, and make and subscribe the Declaration with Resolution to repeat the same on Monday, which being done, the House was moved to take Notice of the good Service of the Duke of *Norfolk* herein, before his withdrawing, which their Lordships took very well from him, and ordered that a Memorial thereof be entered in the Journals of this House for the Honour of his Grace.

A Memorial to his Honour entered in his Journals thereon.

Then several Lords following did take the Oaths, and make and subscribe the Declaration, &c

Lord Audley takes his Leave of the House.

Address to the King in his Lordship's Favour; and his Majesty's Answer.

After which, the Lord *Audley*, taking his Leave of their Lordships, expressed his great Duty to his Majesty, and the Welfare and Peace of this Kingdom, to the great Satisfaction of the whole House, who commanded the Lord-Chancellor to recommend the Lord *Audley* from this House to his Majesty for his Favour and Grace, considering his antient Descent; and the great Actions done by his Ancestors in *France* in former Times, and the small Estate left to his Family by Reason of his Fortune spent in that Service by his Ancestors. To which his Majesty was afterwards pleased to answer, *That he would take special Care of the Lord Audley to provide for him.*

An Irregularity of Lord Wharton in taking the Oaths complained of.

Dec. the 3d, The House was inform'd by some Lords; that they had taken Notice that the Lord *Wharton* did not kiss the Book when he took the Oaths of Allegiance and Supremacy this Day, and so hath not legally taken the said Oaths; his Lordship being gone out of the House was thereupon called in, and being in his Place, the Lord-Chancellor told him, That the House was of Opinion that he hath not taken the Oaths this Day in a legal Manner, because he did not kiss the Book.

His Lordship's Replies.

To which his Lordship said, That he had been allowed to do as he did, this Day at several Times, in this House when he did take the Oaths, and presently withdrew; and then the Lord *Wharton* being withdrawn, the House made the following Order:

Order thereon.

Forasmuch as this Day the Lord Wharton did not take the Oaths of Allegiance and Supremacy in due Form, not having kissed the Book, yet having subscribed the Declaration, as if he had taken the said Oaths; it is order'd, That the Name of the Lord Wharton be put out of the Roll of Subscriptions to the Declaration. And immediately his Name was put out of the Roll at the Table.

The like Complaints of the Earls of Leicester and St. Albans.

It was avowed in the House, That the Earl of *Leicester* and the Earl of *St. Albans* did not pronounce some Words in taking

taking the Oaths of Allegiance and Supremacy, and making the Declaration this Day, their Lordships did offer to take the same for the Satisfaction of the House; which they did accordingly. Anno 30 Car. II. 1678.

The House was also acquainted that the Lord Marquis of *Dorchester* did not say some Words in taking the Oaths of Allegiance and Supremacy, and making the Declaration this Day; whereupon the House ordered that his Lordship should take the said Oaths, and make the Declaration again Tomorrow Morning. And the Marquis of Dorchester.

December the 5th, The Commons impeached the Lord *Arundel* of *Wardour*, the Earl of *Powis*, the Lord Viscount *Stafford*, the Lord *Petre*, and the Lord *Bellasis*, of High Treason, and other Crimes and Misdemeanours. Five Popish Lords impeached.

The Lord Chief Justice had in *October* issued out his Warrant for apprehending the said Lords at the Instance of the Commons; which the Lords being informed of by the said Chief Justice, they committed the said Lords to the Tower by an Order of their own. And committed to the Tower.

The 10th, The Lords, at a Conference, signified, that, being inform'd his Majesty hath sent Orders for withdrawing the Forces out of *Flanders*, in order to their disbanding, many Difficulties and Dangers do occur to their Lordships if such Rules and Orders be not established by Consideration and Advice of both Houses, that the disbanding may be made with Safety, which their Lordships conceive cannot be by bringing such a Power together to the Forces already here; and do therefore propose, that the Forces already here may not be increased by the Accession of more from abroad; but that a proportionable Number of those here may be disbanded before the Regiments from *Flanders* shall arrive, and that after Consideration hereof by the Commons, by the joint Advice of both Houses a Reglement may be made accordingly. A Conference on the Forces in Flanders.

The 23d, The Commons impeach'd the Lord-High-Treasurer *Danby*; against whom they exhibited six Articles (which are to be found in CHANDLER's *History*, Anno 30 Car. II. 1678, Page 318, 319.) Upon the reading of which, a Motion being made for his Lordship to withdraw, it was overruled by a Majority of Twenty; after which his Lordship rose up and made a formal Speech in his own Vindication, in Substance as follows: Lord Danby impeached.

My Lords,

• I know this is not the Time for me to enter regularly upon my Defence, because I know your Lordships will first order me a Copy of my Charge, and appoint me a Time
1678. Ff for

• See CHANDLER's Hist. Anno 30 Car. II. 1678, Page 315.

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for my Vindication ; when I doubt not to do it to the full Satisfaction of your Lordships, and all the World. In the mean time I will only beg leave to observe to your Lordships, that those Articles in this Charge which seem to have any thing of Treason in them, have their Answer so obvious, that there is very little in them, which may not be answer'd by many others, as well as myself, and some of them by every Man in the Kingdom. The *First*, which is the assuming of Regal Power, I confess, I do not understand ; having never in my Life done any thing of great Moment, either at home, or relating to foreign Matters, for which I have not always had his Majesty's Command. And tho' I am far from having been the most cautious Man in taking Care of my own Security, (which perhaps my great Innocence hath been the Cause of,) yet I have not been so wanting of common Prudence, as in the most material Things not to have had his Majesty's Orders and Directions under his own Hand, and particularly for the Letters now made use of against me. The *Second*, I think, doth scarce need my giving any Answer to ; it being obvious, that the Army was no more rais'd by me, than by every Lord in this House : And whoever is in that Station which I hold, must certainly be a Fool, to desire any thing which creates a want of Money, especially so great a one, as the Charge of an Army must necessarily and immediately produce. And so for one Part of the Article concerning the Pay-Master of the Army, it is in Fact otherwise ; for Security from the Pay-Master has been taken in the Sum of four hundred thousand Pounds. The *Third* is of the same Nature with the First, and comes from the same Foundation, which is, what a Gentleman hath thought fit to produce to the House of Commons. I will not now censure his Actions, I think it will do enough for its self ; I will only say, that tho' I take it for one of the greatest Misfortunes which can befall a Man, to lie under such a Charge of the House of Commons, yet I would much sooner chuse to be under that Unhappiness, than under his Circumstances.

The *Fourth Article* is not only false in every Part of it, but it is not possible to believe it true, without my being the greatest Fool on Earth, as well as the blackest Villain. For were I capable of such Wickedness, yet the more wicked any Man is, the more he is carried to his own Interest ; and is it possible any thing under Heaven can agree less with my Interest, than the Destruction of this King ? Can I possibly hope to be better than I am ? And is it not apparent, that there is not one Man living, whose Happiness depends so much as mine upon the Preservation of his Person ? My
 Lords,

Lords, I know there is not one Man in the World, that can in his Heart think me guilty of that Part of the Article, if I should say nothing to it. But, besides, I was so far from concealing this hellish Plot, that it is notoriously known, his Majesty sent me the first Notice of it, together with forty-three Heads of the Information, before I knew a Syllable of it from any body else : And it hath been own'd at the Bar of the House of Commons by him, from whom only I had the Intelligence, *That he had all the Encouragement and Dispatch from me, that I could give him.* Besides, when it was disclos'd to the Council-Board, he told some of the Clerks of the Council, as he had done me divers times before, *That it would have been much better, and more would have been discover'd, if it had been longer kept private.* Besides this, I had the Fortune to be particularly instrumental in seizing Mr. Coleman's Papers, without which Care, there had not one of them appear'd ; and consequently, the best and most material Evidence which is yet of the Plot, had been wholly wanting. And certainly this is the first time that any Man was accused to be the Concealer of that Plot, whereof he hath been a principal Means of procuring the Discovery. For that Part of the Article that says, *I am positively affected,* I thank God, that the contrary is so well known to all the World, that even some of those that voted against me, did own their Knowledge of the Falsity of that Allegation ; and I hope I have, through my whole Life, given so good Testimony of my Religion, both in my own Family, and by my Services to the Church, whenever it hath lain in my Power, that I shall not need much Vindication in that Particular : And I hope your Lordships will forgive me my Weakness, in telling you, that I have a younger Son in the House of Commons, whom I shall love the better as long as I live, for moving to have that Part of the Article to stand against me, *That by that Pattern, it might appear, with what Sort of Zeal the Whole hath been carried on to my Prejudice.*

The Fifth Article will, upon Examination, appear to be as ill grounded as any of the rest ; and I am sorry I am able to give one Reason ; which is, That I have known no Treasure in my Time to waste, having enter'd upon an empty Treasury, and never seen one Farthing given to his Majesty, in almost six Years, that hath not been appropriated to particular Uses, and strictly so apply'd by me, as the Acts have directed. And there hath not been one of those Aids, which, instead of giving the King Money, hath not cost him more out of his own Purse to the same Use, as doth appear by the larger Dimensions of the new Ships,

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and so in other Things : Inſomuch, that I take upon me the Vanity to ſay, that, by the Payments I have made to the Navy and Seamen beyond former Times ; the paying off the greateſt Part of the Debt which was ſtopp'd in the Exchequer before my Time, by my Punctuality in the Courſe of Payments, and by other things which I am able to ſhew, I doubt not to appear meritorious, inſtead of being criminal upon that Article. As to the *Sixth Article*, which mentions my *great Gettings*, I cannot deny but that I ſerve a Maſter, whoſe Goodneſs and Bounty hath been a great deal more to me than I have deſerved, and to whom I can never pay Gratitude enough by all the Services of my Life. But when the Particulars of thoſe Gettings ſhall appear, it will be found very contrary to what is ſuggeſted Abroad ; and that, in near fix Years Time in this great Place, I have not got half that, which many others have got in leſſer Places in half that Time. And from the Examination of this, which I deſire may be ſeen, there will ariſe Matter to accuſe my Prudence, in not having done for my Family what juſtly I might ; but nothing to arraign my Honour, my Conſcience, or my faithful Service to the Crown.

‘ My Lords, If my Obedience to the King ſhall not be my Crime, I think nothing elſe will ſtick upon me from theſe Articles : For my own Heart flatters me to believe, that I have done nothing but as a Proteſtant, and a faithful Servant, both to my King and Country. Nay, I am as confident, as that now I ſpeak, that, had I been either a Papiſt, or Friend to the *French*, I had not been now accuſed, For I have Reaſon to believe, that the principal Informer of the Houſe of Commons hath been aſſiſted by the *French* Advice to this Accuſation ; and if that Gentleman were as juſt to produce all he knows for me, as he hath been malicious to ſhew what may be liable to Miſconſtruction againſt me, or rather againſt the King, as indeed it is, no Man could vindicate me more than himſelf ; under whoſe Hand I have to ſhew, *how great an Enemy to France I am thought ; how much I might have been otherwiſe ; and what he himſelf might have had for getting me to take it.* But I do not wonder this Gentleman will do me no Right, when he does not think fit to do it to his Maſteſty, upon whom chiefly this Matter doth reflect : Tho’ he knows, as will appear under his Hand, *That the greateſt Invitations to his Maſteſty for having Money from France, have been made by himſelf ; That, if his Maſteſty would have been tempted for Money, he might have ſold Towns for as much as if they had been his own, and the Money have been convey’d as privately as he pleaſed ; That his Maſteſty might have made Matches with France, if he would have*

have consented to have given them Towns ; and yet, that the King hath always scorn'd to yield the meanest Village, that was not agreed to by the Spaniard and Hollander. That Gentleman hath often pretended how much his own Interest in France was diminished, only by being thought my Friend. And, besides divers other Instances, I have under his Hand to shew the Malice of the French Court against me ; I sent two of his Letters to the House of Commons, which shew how Monsieur Rouvigny was sent hither on purpose to ruin me ; which I am well assur'd, at this Time, they would rather see, than of any one Man in England. Besides what that Gentleman could say of this kind, if he pleas'd, I hope his Majesty will give me Leave, in my Defence, to say in his Presence, and in the Hearing of divers Lords, with whom I have the Honour to sit in the Committes of foreign Affairs, that which, were it not true, his Majesty must think me the impudentest and worst of Men, to affirm before him, That, ever since I had the Honour to serve his Majesty, to this Day, I have deliver'd it as my constant Opinion, That France was the worst Interest his Majesty could embrace ; and that they were the Nation in the World from whom, I did believe, he ought to apprehend the greatest Danger ; and who have both his Person and Government under the last Degree of Contempt. For which Reason alone, were there no other, I would never advise his Majesty to trust to their Friendship.

Apr. 10. Cam.
11. 1678.

When he had ended his Speech, a great Debate arose, on the Question, Whether the Impeachment should be received as an Impeachment of High Treason only, because the Commons had added the Word High Treason in it ?

It was said, the utmost that could be made of it, was to suppose it true. But even in that Case, they must needs say plainly, that it was not within the Statute.

To this it was answered, That the House of Commons that brought up the Impeachment, were to be heard to two Points, *viz.* to the Nature of the Crime ; and the Trial of it. But the Lords could not take upon them to judge of either of these, till they heard what the Commons could offer to support the Charge: They were bound therefore to receive the Charge, and to proceed according to the Rules of Parliament, which was to commit the Person, so impeached, and then give a short Day for his Trial. So it would soon be over, if the Commons could not prove the Matter charged to be High Treason.

The * Debate was carried on with much Heat on both Sides,

* And here I cannot but take Notice, that the King observing the Lord

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Sides, and, among the Speakers on this Occasion, was the Earl of *Carnarvon*, a Lord who is said never to have spoken before in that House; who, having been heated with Wine, and more excited to display his Abilities by the Duke of *Buckingham*, (who meant no Favour to the Treasurer, but only Ridicule) was resolved, before he went up, to speak upon any Subject that should offer itself. Accordingly he stood up, and delivered himself to this Effect:

My Lords,

The Earl of
Carnarvon.

‘I understand but little of *Latin*, but a good deal of *English*, and not a little of the *English* History, from which I have learnt the Mischiefs of such kind of Prosecutions as these, and the ill Fate of the Prosecutors. I could bring many Instances, and those very antient; but, my Lords, I shall go no farther back than the latter End of Queen *Elizabeth*’s Reign: At which Time the Earl of *Essex* was run down by Sir *Walter Rawleigh*. My Lord *Bacon*, he ran down Sir *Walter Rawleigh*, and your Lordships know what became of my Lord *Bacon*. The Duke of *Buckingham*, he ran down my Lord *Bacon*, and your Lordships know what happened to the Duke of *Buckingham*. Sir *Thomas Wentworth*, afterwards Earl of *Strafford*, ran down the Duke of *Buckingham*, and you all know what became of him. Sir *Harry Vane*, he ran down the Earl of *Strafford*, and your Lordships know what became of Sir *Harry Vane*. Chancellor *Hyde*, he ran down Sir *Harry Vane*, and your Lordships know what became of the Chancellor. Sir *Thomas Osborne*, now Earl of *Danby*, ran down Chancellor *Hyde*; but what will become of the Earl of *Danby*, your Lordships best can tell. But let me see that Man that dare run the Earl of *Danby* down, and we shall soon see what will become of him.’ This being pronounced with a remarkable Humour and Tone, the Duke of *Buckingham*, both surpris’d and disappointed, after his way, cried out, *The Man is inspired! and Claret has done the Business.*

The Majority, however, was against the Commitment; upon which it was visible (says Dr. *Burnet*) that the Commons would have complain’d, that the Lords deny’d them Justice. So there was no Hope of making up the Matter; and upon that the Parliament was first prorogued and then dissolved. (See CHANDLER’S *Hist. Anno 30 Car. II. 1678, Page 322,*

Lord *Stafford* to be very violent in the House against the Lord *Danby*, (which, it seems, took Birth from a personal Pique to him, for obstructing a Pension he had from the Crown) told me, He wondered at it much, seeing his Father came to the unfortunate End he did, by the very self-same Method of Procedure.

Sir JOHN RERSBY.

322, 323,) a Money-Bill for paying and disbanding the *Anno 30 Car.*
 Army having been lost, because the Lords refused to admit of *II. 1678.*
 the Moneys being paid into the *Chamber of London.*

This Session affords us another Protest, which was as *Long Parliament*
 follows. *dissolved.*

Die Veneris 6^a Decembris, 1678.

An * Address to desire his Majesty to cause Popish Recu-
 sants, reputed ones, and suspected Papists, to be apprehended,
 disarmed and secured, was brought from the Commons and
 read.

And after some Debate, the Question was put, Whether to
 agree to this Address as it is now worded ?

It was resolved in the Affirmative.

Dissentient

For that it is humbly conceived to be contrary to, and *Protest on the*
 against Law in several Particulars, and both unjustifiable and *Bill to disarm*
 dangerous for those that shall put it in Execution. *Papists.*

Northampton, Anglesea, Ferrers, † Fretchville.



[As the Time for the Meeting of the new Parliament
 drew near, so the King was daily preparing the Way to
 make it an useful and easy Session ; and omitted no popular
 Acts that might testify his Apprehensions of Popery and the
 Plot, which had now so filled the Heads of the Nation. But
 the most popular Act at this Time was reserved to the last,
 and that was the sending away his Brother the Duke of
 York, that he might be no Cause of Disputes in the Parlia-
 ment, nor be imagined to influence any Councils at Court.
 Accordingly, he directed the following Letter to his Royal
 Highness, on the 28th of *February*: ‘ I have already given
 you my Resolve at large, why I think it fit that you should
 absent yourself for some Time beyond the Seas ; As I am
 truly sorry for the Occasion, so may you be sure I shall ne-
 ver desire it longer than it will be absolutely necessary for
 your Good, and my Service. In the mean time, I think it
 proper to give it you under my Hand, that I expect this Com-
 pliance from you, and desire it may be as soon as conveni-
 ently you can. You may easily believe with what Trouble I
 write; there being nothing I am more sensible of than the con-
 stant Kindness you have ever had for me. I hope you are

*King's Letter
 to his Brother.*

as

* See CHANDLER's History, Anno 30 Car. II. 1678, Page 302.

† This Peer's Name is omitted in the printed Book of Protests.

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as just to me, to be assured, That no Absence nor any thing
else, can ever change me from being truly and kindly
yours, C. R.'

In pursuance of this Command, his Royal Highness, with
the Duchess and his Family, immediately made ready to take
Shipping for *Holland*, which they did upon the 3d of *March*.



The FIRST SESSION of the Third Parliament, or Second summoned by Writ, in the Reign of King CHARLES II.

ON *Thursday, March 6*, both Houses met at *Westminster*,
and the Session was opened with a Speech from the
House, and another by the Lord Chancellor *Finch*
(both of which are inserted in *CHANDLER'S Hist. Anno 31
Car. II. 1678-9, Page 323, 324, 325, 326, 327, 328,
329*;) But a Dispute arising between the King and the
Commons, in relation to the Choice of a Speaker, his Ma-
jesty prorogued the Parliament, *March 13*, to obviate the
Difficulties it occasion'd, before it was possible for them to
proceed to Business.



The SECOND SESSION of the Third Par- liament

WAS, however, open'd two Days after; the King
only in a few Words, referring them to what he
had spoke before: And the Lord Chancellor a-
gain directing the Commons to proceed to the Choice of a
Speaker.

The Impeachment of the Earl of *Danby* began during
the last Session of the last Parliament was the first and prin-
cipal Business of both Houses; for the whole Progress of
which Affair, containing several Conferences between the two
Houses, &c to the Time of his Lordship's Surrender, See
*CHANDLER'S History, Anno 31 Car. II. 1678-9, from Page
337 to Page 344 inclusive.*

But while that was in Agitation, *viz. March the 25th*,
the Earl of *Shaftsbury* made the following Speech, on a
Motion

Motion for a Committee to enquire into the State of the Anno 31, Case
 Nation. II. 1679.

My Lords,

‘ You are appointing the Consideration of the State of Earl of Shaftsbury’s Speech.
England, to be taken up in a Committee of the whole House, some Day next Week. I do not know well how what I have to say may be received, for I never study either to make my Court well, or to be popular ; I always speak what I am commanded by the Dictates of the Spirit within me.

‘ There are some Considerations Abroad, that concern *England* so nearly, that without them you will come far short of Safety and Quiet at Home : *We have a little Sister, and she hath no Breasts ; what shall we do for our Sister in the Day when she shall be spoken for ? If she be a Wall, we will build on her a Palace of Silver ; if she be a Door, we will inclose her with Boards of Cedar.* We have several little Sisters without Breasts, the *French* Protestant Churches, the two Kingdoms of *Ireland* and *Scotland* ; the foreign Protestants are a Wall ; the only Wall and Defence to *England* ; upon it you may build Palaces of Silver, glorious Palaces. The Protection of the Protestants abroad is the greatest Power and Security the Crown of *England* can attain to, and which can only help us to give Check to the growing Greatness of *France*. *Scotland* and *Ireland* are two Doors, either to let in Good or Mischief upon us ; they are much weakened by the Artifice of our cunning Enemies, and we ought to inclose them with Boards of Cedar.

‘ Popery and Slavery, like two Sisters, go hand in hand, and sometimes one goes first, sometimes the other ; but wheresoever the one enters, the other is always following close at hand.

‘ In *England*, Popery was to have brought in Slavery ; in *Scotland*, Slavery went before, and Popery was to follow.

‘ I do not think your Lordships, or the Parliament, have Jurisdiction there. It is a noble and antient Kingdom ; they have an illustrious Nobility, a gallant Gentry, a learned Clergy, and an understanding, worthy People : But yet, we cannot think of *England* as we ought, without reflecting on the Condition they are in. They are under the same Prince, and the Influence of the same Favourites and Councils ; when they are hardly dealt with, can we that are richer expect better Usage ? For ’tis certain that in all absolute Governments, the poorest Countries are always most favourably dealt with.

‘ When the antient Nobility and Gentry there cannot enjoy their Royalties, their Shrievaldoms, and their Stewardries,
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ardries, which they and their Ancestors have possessed for several hundreds of Years; (but that now they are enjoined by the Lords of the Council, to make Deputations of their Authorities to such as are their known Enemies) can we enjoy our *Magna Charta* long under the same Persons and Administration of Affairs? If the Council-table there can imprison any Nobleman or Gentleman for several Years, without bringing him to Trial, or giving the least Reason for what they do; can we expect the same Men will preserve the Liberty of the Subject here?

‘ I will acknowledge, I am not well versed in the particular Laws of *Scotland*; but this I do know, that all the Northern Countries have, by their Laws, an undoubted and inviolable Right to their Liberties and Properties; yet *Scotland* hath outdone all the Eastern and Southern Countries, in having their Lives Liberties, and Estates, subjected to the arbitrary Will and Pleasure of those that govern. They have lately plundered and harassed the richest and wealthiest Countries of that Kingdom, and brought down the barbarous *Highlanders* to devour them; and all this without almost a colourable Pretence to do it: Nor can there be found a Reason of State for what they have done; but that those wicked Ministers designed to procure a Rebellion at any rate, which, as they managed, was only prevented by the miraculous Hand of God, or otherwise all the Papists in *England* would have been armed, and the fairest Opportunity given, in the just Time for the Execution of that wicked and bloody Design the Papists had; and it is not possible for any Man that duly considers it, to think other, but that those Ministers that acted that, were as guilty of the Plot, as any of the Lords that are in Question for it.

‘ My Lords, I am forced to speak this the plainer, because till the Pressure be fully and clearly taken off from *Scotland*, ’tis not possible for me, or any thinking Man to believe, that Good is meant to us here.

‘ We must still be upon our Guard, apprehending that the Principle is not changed at Court; and that these Men are still in Place and Authority, who have that Influence upon the Mind of our excellent Prince, that he is not, nor cannot be that to us, that his own Nature and Goodness would incline him to.

‘ I know your Lordships can order nothing in this, but there are those that hear me can put a perfect Cure to it; until that be done, the *Scottish* Weed is like Death in the Pot, *Mors in Olla*: But there is something too, now I consider, that most immediately concerns us; their Act of twenty-two thousand Men to be ready to invade us upon all Occasions.

Occasions. This, I hear, that the Lords of the Council Anno 31, Car.
there have treated as they do all other Laws, and expound II. 1679.
ed it into a Standing-Army of six thousand Men. I am
sure we have Reason and Right to beseech the King that
that Act may be better considered in the next Parliament
there. I shall say no more for *Scotland*, at this Time;
I am afraid your Lordships will think I have said too
much, having no Concern there: But if a *French* Noble-
man should come to dwell in my House and Family, I
should think it concerned me to ask what he did in *France*?
for if he were there a Felon, a Rogue, a Plunderer, I
should desire him to live elsewhere; and I hope your Lord-
ships will do the same Thing for the Nation, if you find
the same Cause.

‘ My Lords, give me Leave to speak two or three Words
concerning our other Sister, *Ireland*: Thither, I hear, is
sent *Douglas’s* Regiment, to secure us against the *French*.
Besides, I am credibly informed, that the Papists have
their Arms restored, and the Protestants are not many of
them yet recovered from being the respected Party; the
Sea-Towns, as well as the Inland, are full of Papists: That
Kingdom cannot long continue in the *English* Hands, if
some better Care be not taken of it. This is in your Power,
and there is nothing there, but is under your Laws; there-
fore I beg that this Kingdom at least may be taken into Con-
sideration, together with the State of *England*; for I am
sure there can be no Safety here, if these Doors be not
shut up and made sure.’

On the same Day the Lords sent a Message to acquaint
the House of Commons, ‘ That they had sent to apprehend
Thomas, Earl of *Danby*, both to his House here in Town,
and to his House at *Wimbleton*; and that the Gentleman-
Usher of the Black-Rod had returned their Lordships An-
swer, *That he could not be found*.’

Lord Danby
withdrawn.

The same Day, likewise, an Act for disabling *Thomas*
Earl of *Danby*, was read a third Time.

Act to disable
his Lordship.

And, after some Debate, the Question being put, Whether
this Bill should be now committed?

It was resolved in the Affirmative.

Dissentient Anglesea; for these Reasons:

1st, Because no Summons or Hearing of the Party is first Protest thereon.
directed, which by the essential Forms of Justice ought to be.

2^{dly}, Because it is conceived this will be Error.

3^{dly}, Because it is a dangerous Precedent against all the
Peers, to have so penal a Bill precipitated.

G g 2

4^{thly},

Anno 31 Car. II. 1679. *4tly*, Because no Committee can proceed on any Bill without hearing Parties, and no Peer is to be tried in Parliament, but by the whole House of Peers.

Having giving my Vote against the bringing in an Act, entitled, *An Act for disabling Thomas Earl of Danby*; and voting against the Commitment of the Bill, I enter my Dissent.

Berkeley.

Farther Proceedings on the Earl of Danby's Case.

The Earl of *Danby* withdrawing, drew on the Project of a Bill of Attainder; and *April* the 14th, the Lords, after a long Debate, resolved to agree with the Commons, to the Bill for the Attainder of the Earl of *Danby* of High-Treason, in case he come not in by a Day prefixed; and they delivered it to the Commons at a Conference.

Sir *Francis Winnington* delivered a Message to the Lords, that the Commons agreed to the Bill of Attainder of the Earl of *Danby*.

Thereupon the Lords ordered the Lord Privy-Seal, the Duke of *Monmouth*, the Earl of *Bridgewater*, and the Lord *Grey of Werke*, to acquaint the King, that the Bill is passed both Houses; and in respect of the Shortness of Time limited for the Earl's coming in, that the King would appoint a short Time for their tendering the Bill for his Royal Assent.

April the 15th, The Lord Privy-Seal reported, that he and the other Lords presented the Address concerning the Royal Assent to the Bill of Attainder of the Earl of *Danby*; and his Majesty said that he will be here To-morrow Morning.

His Lordship surrenders himself.

The 16th, The Gentleman-Usher of the Black-Rod acquainted the Lords, that the Earl of *Danby* had rendered himself into his Custody the last Night; and he brought him to the Bar, where he kneeled till the Lord Chancellor bid him stand up; and his Lordship told him, *That he stood impeached, &c. and had Time given him this Parliament to answer, which he had not done, but had withdrawn himself, and caused the Parliament to spend much Time concerning him; and demanded what he had to say to this Matter?*

His Excuses for withdrawing.

To which the Earl of *Danby* making some Answer by way of Excuse for his withdrawing, and hoping to clear his Innocence, made several Requests in order to his answering the Charge, and making his Defence upon his Trial: And being withdrawn, the House considered his Requests; and being again brought to the Bar, and kneeling, the Chancellor did let him know, that he may have a Copy of the Articles against him; and that the House gave him Time to put in his Answer, till the first Day of their sitting after *Easter*; and do order that Serjeant *Raymond*, Mr. *Saunders*, and Mr.

Holt,

Holt, be assigned Council for him as he requested, &c. And as to his last Request, to remain under the Custody of the Black-Rod, their Lordships adjudged that he stand committed to the Tower.

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The 20th, The King came to the House, and made a Speech, communicating certain new Regulations which he had made in his * Privy-Council.

The Scheme of this new Privy-Council was form'd wholly between the King and Sir *William Temple*, who when it had been debated and digested about a Month, and his Majesty well satisfied with the whole, desired him *not to take a Resolution of that Importance, without the Advice of three or four Persons, on whose Judgment and Affection to his Service, his Majesty could most rely.* Hereupon the King ordered him to communicate the whole Design to the Lord Chancellor *Finch*, the Earl of *Sunderland*, and the Earl of *Essex*, but one after the other, and with the utmost Secrecy; and if they concurred with his Opinion, he should appoint them to attend his Majesty the next Morning, in as private a way as they could. They all received the Overture with equal Amazement and Satisfaction: The Lord Chancellor said, *It looked like a Thing from Heaven fallen into his Majesty's Breast:* The Lord *Essex* believed, *That it would leave the Parliament and Nation in the same Disposition to the King which he found at his coming in;* and the Lord *Sunderland* approved it as much as any.

The next Day these four attended the King in private, and had a very long Audience; in which no Difficulties arose but two that were wholly personal. Sir *William* had proposed the Lord *Hallifax* as one of the Lords; to whom the King, in the first Consultations, had shewn more Aversion than to any of the rest; but upon several Representations of his Family, his Abilities, his Estate and Interest, as well as Talent to ridicule and unravel whatever he resented, Sir *William* thought the King had acquiesced. But at this Meeting his Majesty raised new Difficulties, and appeared a great while inflexible; till at last the three Lords joining with Sir *William*, and the latter saying, *They would fall upon their Knees to gain a Point they all thought necessary for his Service,* his Majesty consented. The other Difficulty was concerning the Earl of *Shaftsbury*, who had never been named in the first Debates; and the King either had not thought of him before, or had not mentioned him to Sir *William*, as knowing what ill Opinion he had of that Lord. But after the Lord *Hallifax* had passed, the King said, *There was another, who, if he were left out, might do as much Mischief as any,* and named the

* See CHANDLER's Hist. Anno 31 Car. II. 1679, Page 345.

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II. 1679.



the Lord *Shaftsbury*; to which the three Lords agreed, and over and above concluded, *That he would never be content with a Counsellor's Place among thirty*, and therefore it was proposed to add one to the Number, by making a President, and that he should be the Man. Sir *William* disputed this Point from the first Proposal to the Conclusion; foretelling, *He would destroy all the Good they expected from the whole Constitution*; and spoke with so much Earnestness, that when he saw by the King's agreeing it would be concluded, he walked off, irresolute whether he should have left the Room or not; but turning again, he desired his Majesty to remember, *That he had no Part in Lord Shaftsbury's coming into the Council, or his Affairs; that his Majesty and the other three Lords had resolved it without him, and that he was still absolutely against it.* The King laugh'd, and turn'd Sir *William's* Passion into a Jest; and so proceeded to conclude the Form of the Constitution. Sir *William* had foretold this Fate to his Majesty the Year before; when upon his coming from *Holland*, the King had fallen into all the violent Expressions imaginable against that Earl. He then told his Majesty, *That with his good Leave, he would hold any Wager, he should see that Lord again in his Business*: And when the King ask'd him, *What made him think so?* he answer'd, *Because he knew he was restless while he was out, and would try every Day to get in; had Wit and Industry to find out the Ways; and when Money would work, had as much as any Body to bestow, and Skill enough to know where to place it.*


His Majesty's
Declaration in
Council thereon

All things being completed, on the 20th Day of *April*, the King having order'd an extraordinary Meeting of his Privy-Council, order'd the Lord Chancellor to read the following Declaration: 'My Lords, His Majesty hath called you together at this Time to communicate a Resolution he hath taken, in a Matter of great Importance to his Crown and Government; and which he hopes will prove of the greatest Satisfaction and Advantage to his Kingdoms, in all Affairs hereafter, both at Home and Abroad; and therefore he doubts not of your Approbation, however you may seem concern'd in it. In the first place, his Majesty gives you all Thanks for your Service to him here, and for all the good Advice you have given him; which might have been more frequent, if the great Number of this Council had not made it unfit for the Secrecy and Dispatch that are necessary to many great Affairs. This forced him to use a smaller Number of you in a foreign Committee; and sometimes the Advices of some few among them, upon some Occasions, for many Years past. He is sorry for the ill Success he found in this Court, and sensible of the ill Posture
of

of Affairs from that and some unhappy Accidents, which have raised great Jealousies and Dissatisfaction among his good Subjects; and thereby left the Crown and Government in a Condition too weak for those Dangers we have Reason to fear, both at Home and Abroad. These his Majesty hopes may be yet prevented, by a Course of wise and steady Councils for the future; and these Kingdoms grow again to make such a Figure as they formerly have done in the World; and as they may always do, if our Union and Conduct were equal to our Force. To this end, he hath resolved to lay aside the Use he may have hitherto made of any single Ministry, or private Advice, or foreign Committees, for the general Direction of his Affairs; and to constitute such a Privy-Council, as may not only by its Number be fit for the Consultation and Digestion of all Business, both domestic and foreign; but also by the Choice of them, out of the several Parts this State is composed of, may be the best inform'd in the true Constitutions of it, and thereby the most able to counsel him in all the Affairs and Interests of this Crown and Nation. And by the constant Advice of such a Council, his Majesty is resolved hereafter to govern his Kingdoms; together with the frequent Use of his Great Council of Parliament, which he takes to be the antient Constitution of this State and Government.

Now for the greater Dignity of this Council, his Majesty resolves their constant Number shall be limited to Thirty: And for their greater Authority, there shall be fifteen of his chief Officers, who shall be Privy-Counsellors, by their Places; and for the other fifteen, he will chuse ten out of several Ranks of the Nobility, and five Commoners of the Realm, whose known Abilities, Interest and Esteem in the Nation, shall render them without all Suspicion of either mistaking or betraying the true Interest of the Kingdom, and consequently of advising him ill. In the first place therefore, and to take Care of the Church, his Majesty will have the Archbishop of *Canterbury* and Bishop of *London*, for the Time being: And to inform him well in what concerns the Laws, the Lord Chancellor and one of the Lord Chief-Justices. For the Navy and Stores, the Admiral, and Master of the Ordnance: For the Treasury, the Treasurer, or First Commissioner, and Chancellors of the Exchequer. The rest of the fifteen shall be the Lord Privy-Seal, the Master of the Horse, the Lord-Steward and Lord-Chamberlain of the Household, the Groom of the Stole, and the two Secretaries of State; which shall be all the Offices of his Kingdom, to which the Dignity of a Privy-Counsellor shall be annexed. The others his Majesty has resolv'd

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resolv'd on, and hopes he has not chosen ill. His Majesty intends besides, to have such Princes of his Blood as he shall at any Time call to this Board, being here in Court; a President of the Council, whenever he shall find it necessary; and the Secretary of *Scotland*, when any such shall be here. But these being uncertain, he reckons not of the constant Number of thirty, which shall never be exceeded.

A List of the
said Council.

To make way for this new Council, the King was pleas'd to dissolve the old one, with repeated Thanks for their Services; and the next Morning to nominate and appoint these following Members; His Highness Prince *Rupert*; *William*, Lord Archbishop of *Canterbury*; *Heneage* Lord *Finch*, Lord Chancellor of *England*; *Anthony* Earl of *Shaftsbury*, Lord President of the Council; *Arthur* Earl of *Anglesey*, Lord Privy-Seal; *Christopher*, Duke of *Albemarle*; *James*, Duke of *Monmouth*, Master of the Horse; *Henry*, Duke of *Newcastle*; *John*, Duke of *Lauderdale*, Secretary of State for *Scotland*; *James*, Duke of *Ormond*, Lord Steward of the Household; *Charles*, Lord Marquis of *Winchester*; *Henry*, Lord Marquis of *Worcester*; *Henry*, Earl of *Arlington*, Lord Chamberlain of the Household; *James*, Earl of *Salisbury*; *John*, Earl of *Bridgewater*; *Robert*, Earl of *Sunderland*, one of his Majesty's principal Secretaries of State; *Arthur*, Earl of *Effex*, first Lord Commissioner of the Treasury; *John*, Earl of *Bath*, Groom of the Stole; *Thomas* Lord Viscount *Falconberg*; *George*, Lord Viscount *Hallifax*; *Henry*, Lord Bishop of *London*; *John*, Lord *Roberts*; *Denzil*, Lord *Hollis*; *William*, Lord *Ruffel*; *William*, Lord *Cavendish*; *Henry* *Conventry*, Esq; one of his Majesty's principal Secretaries of State; Sir *Francis North*, Knight, Lord Chief Justice of the Common-Pleas; Sir *Henry Capel*, Knight of the *Bath*, first Commissioner of the Admiralty; Sir *John Ernly*, Knight, Chancellor of the *Exchequer*; Sir *Thomas Chicheley*, Knight, Master of the Ordnance; Sir *William Temple*, Baronet; *Edward Seymour*, Esq; and *Henry Powle*, Esq; These, or most of them, being sworn, his Majesty was pleas'd to declare. *That he would have all his Affairs debated freely, of what kind soever they were; and therefore with absolute Secrecy.*

Farther Pro-
ceedings on the
Earl of Danby's
Case.

April 24, The Lords ordered the Lieutenant of the Tower to bring the Earl of *Danby* to the Bar at Ten Tomorrow, to put in his Answer to the Impeachment.

The 25th, The Earl of *Danby* being brought to the Bar, pleaded a Pardon from the King; which was read, and then sent to the House of Commons; who referred it to a Committee to examine the Matter of the Plea, and to search how Precedents stand in relation to the Pardon, and in what manner and by what means it was obtained.

The

The 29th, The Earl of *Danby* was brought to the Lords Bar, and was told by the Chancellor, That the Commons demanded to know whether he would abide by his Plea? To which he said, the Question was new to him, and of very great Importance, and therefore he desired Time to advise on it; and their Lordships gave him Time till *Saturday*.

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April 30, The King made a Speech to both Houses, recommending the Prosecution of the Plot, the disbanding the Army, and the providing a Fleet: To which a Supplement was made by the Lord Chancellor *Finch*. See CHANDLER'S Hist. Anno 31 Car. II. 1679, Page 248, 249, 250.

May 2d, An Act for freeing the City of *London* and Parts adjacent from Popish Inhabitants, being read the third Time, The Question was proposed, Whether this Bill shall be amended? Bill for freeing the City of London of Papists passed.

Then this previous Question was put, Whether this Question shall be now put?

It was resolved in the Negative.

Then the Question was put, Whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient

Because this House hath sent down a Bill to the House of Commons, for the better Discovery and speedy Conviction of Popish Recusants, wherein the Conviction of Recusancy was for refusing the Test, and not the Oaths; the same Bill was sent down from this House about the End of the last Parliament.

As also because there are Thousands of Dissenters that will be faithful, even to Death, against the common Enemies the Papists, which, by the Addition of the Oaths to the Test, may be tempted to think themselves, in Interest, obliged to take the Papists Parts against us.

Shafisbury, Pr. Berkeley, Derby, Huntingdon, Kent, Chandos, Stamford, Delamer.

May 3d, The Earl of *Danby* being brought to the Bar, the Lord-Chancellor asked for his Answer; to which he said, The Plea I have put in, was by the Advice of my Council, who tell me, that my Pardon is good in Law, and advise me to insist upon my Plea, which I now do, and desire that my Council may be heard to make out the Validity of my Pardon, and that Serjeant *Barrel* and Mr. *Pollexfen* may be added to the Council formerly assigned to me; and they were accordingly assigned to be his Counsel.

Earl of Danby's Plea.

The 5th, The Speaker, with the Commons, came to the Lords Bar, and demanded Judgment of their Lordships against the Earl of *Danby*. Commons demand Judgment against him.

1678 9.

H h

Ordered,

Anno 31 Car. II. 1679. Ordered, That this House will take this Demand into Consideration To-morrow Morning; and all the Judges and Mr. Attorney General are to attend the House.

Orders thereon. The 6th, Ordered, That *Saturday* next be appointed for the hearing the Earl of *Danby*, to make good his Plea in *Westminster-Hall*; and that an Address be made to his Majesty, to appoint a High-Steward for that Purpose, and for the Trials of the five Lords in the *Tower*.

Conference with the Commons on appointing a High Steward.

The 8th, At a Conference (See *CHANDLER'S Hist. Anno 31 Car. II. 1679, Page 354*) the Commons declared it, as their Opinion, that a High-Steward was unnecessary on this Occasion; and proposed that a Committee of both Houses might be appointed to consider the most proper Methods of Proceeding on such Occasions.

After which the Lords enter'd into a long Debate, whether to agree with the Desires of the Commons in appointing a Committee of both Houses, &c. Resolved in the Negative: Which Vote being communicated at a Conference, it occasioned several warm Votes in the other House, which see in *CHANDLER'S History*, the Page last quoted, &c. as likewise all the other remarkable Passages relating to the joint Proceedings of both Houses in the Pages following, on the Case of the Earl of *Danby* and the five Popish Lords.

Conference relating to the Lords Spiritual.

The 26th, The Commons, at a Conference, delivered their Reasons (see *CHANDLER'S History, Anno 31, Car. II. 1679, Page 365*.) for adhering to the Vote with respect to the Lords Spiritual, and the next Day the Lords having long debated the said Reasons, and the Question being put, Whether to insist upon the Vote concerning the Lords Spiritual?

It was resolved in the Affirmative.

• *Dissentient* •

Protest thereon.

Buckingham, Bedford, Suffolk, Grey, Leicester, Derby, Clare, Huntington, Winchester, Lovelace, Stamford, Scarf-dale, Delamer, Salisbury, Kent, Shafisbury, Rochester, North and Grey, Townsbend, Herbert, Newport, Say and Seal, Wharton, Strafford, Howard, Paget, Fauconberg, Windsor.

The Parliament prorogued.

The same Day the King came to the House, and having given his Royal Assent to the famous *Habeas Corpus Act*, and two private Acts, prorogued the Parliament to *August 14*.



Proceedings of the new Privy-Council.

Some Notice is proper to be here taken of the Proceeding of the new instituted Council; in which the *Quadrumvirate*, the Lords *Hallifax, Essex*, and *Sunderland*, and Sir *William Temple*,

• This Debate is not in the Printed Book of Protests.

Temple, jointly proceeded with great Freedom and Unanimity: Anno 31 Car. II. 1679.
 But this Conjunction held not long in the same Condition ; for, after the Expedients and Concessions offered in the Lord Chancellor's Speech had been rejected, the Earl of *Shaftsbury* finding himself neither in Confidence with the King, nor Credit in the Council, turned all his Practices and Hopes to the House of Commons, and enflamed them to that Degree, as made the three Lords grow uneasy, and to cast about which Way they might allay the Storm. At length the Lord *Sunderland* told Sir *William Temple*, that the other two Lords were of Opinion, *That it was necessary to take in the Duke of Monmouth and the Earl of Shaftsbury, into the first Digestion of Affairs; considering the Influence they had upon the House of Commons; and for that end, to agree with them in the Banishment of the Duke of York, either for a certain Time, or during the King's Life; and desired to know whether he would fall into it with them, and join in bringing it about with the King.* Sir *William* plainly told the Lord *Sunderland*, he would not : For first, he would never have any thing to do with the Duke of *Monmouth* and the Lord *Shaftsbury* ; and next, he would never enter into Matters of Difference between the King and his Brother ; having upon several Occasions told them both, *That he would ever do all he could towards the Union of the whole Royal Family; but never would have any thing to do with the Divisions of it; and no Man should ever reproach him with breaking his Word, and much less the King and the Duke.* Upon this peremptory Answer, the three Lords fell into Meetings and Consultations with the Duke of *Monmouth* and the Earl of *Shaftsbury*, which Sir *William* knew nothing of ; but tho' they did not keep up the first Confidence with the latter, their former Kindness to one another still continued.

But their Union lasted not long neither: For, within a Fortnight, they began to find the Duke of *Monmouth* and Earl of *Shaftsbury* unreasonable, and like to prevail upon the House of Commons, to endeavour the reducing the King to a Necessity of yielding all Points to them ; and consequently they two would be left absolutely at the Head of Affairs : So that the three Lords began to make their Complaints of it to Sir *William Temple*, and to fall upon the Thoughts of proroguing the Parliament, as the only Remedy left for the present Distemper. Sir *William* agreed with them in this Proposal ; and the more readily, because he foresaw it would totally break off all the Commerce between the three Lords, and the Duke of *Monmouth* and the Lord *Shaftsbury* : And so they agreed to propose it to the King, and that it should be debated in Council, where they concluded

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concluded it would not fail of Success. In this Resolution they parted, and appointed to meet two Days after, for fixing it with his Majesty in Council, which was on the 27th of May. Sir *William* staid these two Days in the Country; and upon his Arrival early in the Morning, he was told by the Earl of *Essex*, *That the King had found out there were Remonstrances ready prepared in the House of Commons, to enflame the City and Nation upon the Points of Plots and Popery; and that their three Lordships, Hallifax, Sunderland, and himself, having thereupon consulted with his Majesty, he resolved the Parliament should be prorogued that Morning, upon the King's coming to the House; and that it could not be allowed Time or Vent by a Debate in full Council.* Sir *William* was sorry that it could not have that Sanction, according to usual Form: But it passed otherwise, and with very great Surprize and Resentment of both Houses, and such Rage of the Earl of *Shaftsbury*, that, thereupon, he cried out in the House, *He would have the Heads of those who were the Advisers of this Prorogation.*

As the Term of the Prorogation was near expiring, all agreed that a Session could not conveniently begin before *October*; and a Day was appointed for considering that Matter in full Council. It was observed, that the Duke of *Monmouth* was now greater than ever; and that the Lord *Shaftsbury* expected to be so, upon the next Meeting of the Parliament, and at the Cost of those whom he took to be the Authors of the last Prorogation: The Lords *Essex* and *Hallifax*, now out of all Measures with the Duke of *Monmouth*, looked upon themselves as most in Danger, and aimed at by the Lord *Shaftsbury*'s Threats. This occasioned a Consultation among the three Lords, and Sir *William Temple*, whether, considering the Distemper of the present Parliament, the best Course were not to dissolve it, and have another called in *October*? Which being unanimously carried in the Affirmative, and the King being fully of the same Mind, it was resolved, that his Majesty should at next Council propose the Question, *Whether there should be a further Prorogation, or a Dissolution, with a new Parliament;* and that, in the mean time, the Lord-Chancellor and the other chief Officers should be acquainted with the King's Mind, either by himself or the three Lords, Sir *William Temple* being to go into the Country. By their Computation, they all four concluded there could not be above six in the whole Council that could be against the Resolution; which they thought would be a great Support to the King's Resolution against all the Exclamations they expected from the Earl of *Shaftsbury* and his Party; and at least against the Consequences usually

usually deduced from the Forms of calling and dismissing. *Anno 31 Car. II. 1679.*
 Parliaments, viz. *The Advice of the Privy-Council.*

But when the Council-Day came, which was the 10th of July, the King and the three Lords having neglected to prepare the Lord-Chancellor and other chief Officers, Sir *William Temple*, at the King's proposing the Question, observed a general Surprize at the Board; which made him suspect his Majesty had spoke of it to few or none but the Chancellor, before he came in. It soon appeared he had not so much as done that neither: For after a long Pause, he was the first that rose up, and spoke long and violently against the Dissolution; was followed by the Lord *Shaftsbury* in the fullest manner, and most tragical Terms; and by the Lord *Anglesea*, who urged all the fatal Consequences that could be; being still followed by the Lord *Arlington*, Marquis of *Worcester*, and every Man there, except the three Lords, who spoke for the Dissolution; but neither with half the Length or Force of Argument they intended to have done. They left, it seems, that Part to Sir *William Temple*, who was sufficiently instructed in the Case; but resenting the Negligence of his Friends, who might so easily have effected what was agreed on, and seeing that Reason would signify nothing, after such a plain Majority, he contented himself with saying, *That he thought it was every Man's Opinion, that a happy Agreement between his Majesty and Parliament was necessary to his Affairs, both at Home and Abroad: That all the Difference, in a Continuance of this, or assembling of another Parliament, would depend only upon the Probability of agreeing better and easier than the other: That his Majesty had spoken so much of his despairing about any Agreement with this present Parliament, and the Hopes he had of doing it with another, that for his Part he thought that ought to decide it, because he believed his Majesty could better judge of that Point than any body else.* Upon this, the King ordered the Chancellor to draw up a Proclamation for dissolving the present Parliament, and calling another to assemble on the 17th of October following: Whereupon the Council broke up with the greatest Rage in the World, of the Lord *Shaftsbury*, Lord *Russel*, and two or three more, and the general Dissatisfaction of the whole Board.

Long Parliament dissolved.

The

*The Fourth Parliament, or Third summoned
by Writ, in the Reign of King CHARLES
the Second.*

THE 17th of * *October*, 1679, the new Parliament met; but after taking the Oaths, were immediately † prorogued till *January* the 26th, when they met again,

* In August the King having been taken ill, and the Lords Essex and Hallifax having entertain'd much Apprehension of the Resentment of Lord Shaftsbury, now in close League with the Duke of Monmouth, in case his Majesty should die, procured, first, the recalling of the Duke of York from Brussels; and, afterwards, the Banishment of Monmouth, and the Dismission of Shaftsbury from the Head of the Council.

† In the mean time the new Council began to be more and more disunited, and gradually to fall in funder: Sir William Temple was highly disobliged at two of the three Lords, Essex and Hallifax, for concealing their sending for the Duke of York, and still treating of him as if they were Strangers to it; which ended all private Commerce between them and him. On the other Side, they thought themselves not sufficiently sound in the King's or the Duke's Confidence, and that they did other Mens Work; therefore they appear'd ready to give up their Parts in the public Affairs. Others, not well pleas'd with what was done at, and after the Duke's Arrival, seem'd inclinable to the same Retreat. In this State of Affairs, October came on, in which the new Parliament was to meet; at which Time the two Dukes of York and Monmouth were both abroad. The Lord Shaftsbury endeavour'd to enflame the Noise of the late Conduct and Councils against the fitting of the Parliament, and to set on foot Petitions in case they did not sit: The Ministers were not able to stand the opening of the Parliament; and therefore a short Prorogation was expected some Days before that appointed for the Meeting. On the 15th of this Month, the Council being sat, the King, after a little Pause, told them, 'That, upon many Considerations, which he could not at present acquaint them with, he found it necessary to make a longer Prorogation of the Parliament than he intended: That he had consider'd all the Consequences, so far as to be absolutely resolv'd, and not to hear any thing that should be said against it: That he would have the Meeting put off till that time Twelve-month.' However, he order'd the Prorogation to extend no farther than the 26th of January next.

All the Council were startled at this surprizing Resolution, and the Way of proposing it, except those few that were in the Secret; and they thought fit to be silent, and leave the Thing wholly upon his Majesty: Several others stood up, and would have argu'd the Reasons and Consequences of it; but the King would not hear them, and so all Debate ended. After which, Sir William Temple stood up, and with great Freedom told his Majesty, 'That as to the Resolution he had taken, he would say nothing, because he was resolv'd to hear no Reasoning upon it; therefore he would only presume to offer him his humble Advice as to the Course of his future Proceedings; which was, That his Majesty, in his Affairs, would please to make use of some Council or other, and allow Freedom to their Debates and Advices; after hearing which, his Majesty might

gain†, and were told from the House, that they were to be again prorogued to *April*, and yet farther then, unless his Allies should stand in need of their Assistance; accordingly they were prorogued five ** Times more, and did not fit for the

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might yet resolve as he pleas'd. That if he did not think the Persons or Number of this present Council suited with his Affairs, it was in his Power to dissolve them, and constitute another of any Number he pleas'd, and to alter them again when he would: But to make Counsellors that should not counsel, he doubted whether it was in his Majesty's Power, or not, because it imply'd a Contradiction. And so far as he had observ'd, either of former Ages, or the present, he question'd whether it was a Thing ever practis'd in England by his Majesty's Predecessors, or were so now by any of the present Princes in Christendom: Therefore he humbly advis'd him to constitute some such Council, as he would think fit to make use of, in the Digestion of his great and public Affairs.* His Majesty seem'd not displeas'd at what he said, but concluded the Matter as he had before determin'd it.

This increas'd the Breach in the new Council; and, in no long time, the Lord Ruffel, the Lord Cavendish, Sir Henry Capel, and Mr. Powle, pretending to despair of being able to serve the King any longer, in a Conduct of Affairs so disagreeable to the general Humour of the People, went together to the King, and desired his Majesty to excuse their Attendants any more upon him at Council: To which the King, with his usual Frankness, answer'd, With all my Heart. The Lords Salisbury, Essex, and Hallifax, seem'd to have taken the same Resolution, tho' not so much in Form. However, the Lord Essex quitted his Place in the Treasury, and the Lord Hallifax did, in effect, retire; tho' he had own'd to Sir William Temple, 'That his Humour must always have Business to employ it, or would else be uneasy.' Upon the Earl of Essex's leaving the Treasury, Mr. Laurence Hyde, and Mr. Sydney Godolphin, were brought into the Council, and the first in court took the Lord Essex's Place. These two, joining in Confidence with the Lord Sunderland, while Essex and Hallifax were absent, and Sir William Temple in the Country, they were esteem'd to be alone in the Secret and Management of the King's Affairs, and look'd upon as the Ministry. Upon the Removal of the Earl of Shaftsbury, the King made the Lord Roberts, soon after Earl of Radnor, President of the Council. In the Room of the Duke of Monmouth, the Duke of Albemarle was made Captain of the Life-Guards of Horse, and the Earl of Mulgrave, Governor of Hull, and Lord-Lieutenant of the East-Riding of Yorkshire. Sir Stephen Fox was made one of the Commissioners of the Treasury, and Daniel Finch, eldest Son of the Lord Chancellor, now in the room of Sir Henry Capel, first Commissioner of the Admiralty, was brought into the Council.

† Several Petitions being at this Time on foot for the Parliament's sitting to dispatch Business, the King first declared his Displeasure at such Proceedings in Council, and afterwards published a Proclamation against them, in which they are said to be contrary to the common and known Laws of the Land. Notwithstanding which, several of them were presented to him, but all received with Reprimands. On the other side, the City of Westminster express'd an Abhorrence of such Petitions by a public Act, deliver'd to his Majesty, by their Steward, Withins, who was knighted upon that Occasion; and their Example was followed by several Counties: So that **ABHORRANCE** and **PETITIONERS** divided the whole Kingdom, which were soon lost in the mutual Reproaches, which still subsist, of **WHIG** and **TORY**.

** In which Interval, the Duke of Monmouth returned from his Exile without

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the Dispatch of Business till *October* the 21st, when his Majesty opened the Session with a Speech, which is to be found in CHANDLER's *History*, Anno 32 Car. II. 1680, Page 371, as is likewise the whole Debate on the Bill of Exclusion, in the subsequent Pages, on which Account the Loss of the Lords Debates on that important Point, except the single Speech of Lord *Shaftsbury*, is the less to be regretted.

Bill of Exclusion carried up to the Lords.

November the 15th, therefore, it was solemnly carried up to the House of Lords by *William* Lord *Russel*, attended by the Lord *Cavendish*, Sir *H. Capel*, and indeed by almost the whole House of Commons; where it was opposed with as much Warmth as it had been espoused in the other House. The King himself being already resolved, and to all his Friends having declared against the Bill before it came to be read: And tho' the Earl of *Shaftsbury*, the Earl of *Essex*, the Earl of *Sunderland*, and about fifteen more, were zealous and violent for it; yet most of the rest of the House were firm and positive against it; among whom the Lord **Hallifax*, in Spleen to Lord *Shaftsbury*, appeared with great Resolution in the Head of all Debates. Upon the first reading of it, indeed, it was carried in the Affirmative, that it should be committed, by two Votes only. But after it had been strenuously debated till Eleven o'Clock at Night, the King being present all the whole Time; and then the Bishops being all against it except three, it was thrown out, to the great Disappointment and Mortification of all the chief Promoters of this unwieldy Attempt.

On

without Leave. The King, as in the Presence of Almighty God, declared, He never was married, as had been reported, to Mrs. Walters, the said Duke's Mother: The Earls of *Shaftsbury* and *Huntington*; the Lords *Grey* of *Werk*, and *Brandon-Gerard*; the Lord *Russel*, the Lord *Cavendish*, and eight Persons of Distinction more, presented the Duke of *York* in *Westminster-Hall*, as a Popish Recusant, by a Bill in Form, which they deliver'd to the Grand-Jury (See the Debate on the Dismissal of the said Jury in CHANDLER's *Hist.* Anno 32 Car. II. 1680, Page 450) and the said Duke was, thereupon, again order'd back to *Scotland*, from whence he had return'd in *February*.

* This was one of the greatest Days ever known in the House of Lords, with regard to the Importance of the Business they had in hand, which concerned no less than the lineal Succession to the Crown, the Bill having passed the Commons, who sent it up to the Lords. Great was the Debate, and great were the Speakers; the chief of those for the Bill was the Earl of *Shaftsbury*; the chief of those against it, Lord *Hallifax*. It was Matter of Surprise, that the latter should appear at the Head of an Opposition to the former, when they were wont always to draw together; (Sir *John*, it seems, was ignorant of the Animosity between those Lords) but the Business in Agitation was against the Lord *Hallifax*'s Judgment, and therefore he oppos'd it with Vigour; and, being a Man of the clearest Head, finest Wit, and fairest Eloquence, he made so powerful a Defence, that he alone, so all confessed, influenced the House, and persuaded them to throw out the Bill.

On which Occasion we find the following Protest.

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II. 1680.

Hodie 1^a vice lecta est Billa, An Act for securing the Protestant Religion, by disabling *James Duke of York* to inherit the Imperial Crown of *England* and *Ireland*, and the Dominions and Territories thereunto belonging.

After Debate, the House was adjourned into a Committee for the free Debate.

The House being resumed, it was propounded, that the Question may be put for rejecting this Bill.

The Question was put, Whether the Question for rejecting this Bill shall be now put? Contents sixty-one; not Contents thirty.

It was resolved in the Affirmative.

Then the Question was put, Whether this Bill shall be rejected? Contents sixty-three; not Contents thirty.

Protest thereon.

It was resolved in the Affirmative.

Dissentient

Because rejected upon the first reading.

Crews.

The 20th, The Question being propounded, Whether there shall be a Committee appointed, in order to join with a Committee of the House of Commons, to debate Matters concerning the State of the Kingdom, the Earl of *Shafisbury* spoke as follows :

Debate on the
State of the Na-
tion.

My Lords,

‘ In this great Debate concerning the King’s Speech, the *Ld. Shafisbury’s* sad State and Condition we are in, and the Remedies thereof, *Speech thereon.* I have offered you my Opinion, and many Lords have spoken admirably well to it with great Freedom and Plainness, as the Case requires. Give me Leave to offer you some few Words in answer to two or three of my Lords of the Earl’s Bench, that have maintained the contrary Opinion. My Lord near me hath told your Lordships, that the Precedent of *Henry IV.*, that I offered to you (who was a wise and magnanimous Prince, yet, upon the Addressses of his Parliament, put a way great Part of his Family and Council at one Time) is no proper Instance, because he was an Usurper, and had an ill Title, and was bound to please the People. My Lords, I meddle not with his Title; I am sure our King has a very undoubted one: But this, my Lords, you must allow, that that wise Prince, having need of the People, knew no better way to please them, and to create a good Understanding between them and him, than to put away from Court and Council those that were unacceptable to them. If our King hath the same Necessity to please the People (tho’ not the want of a Title) yet the Precedent holds good, *That a wise*

1680.

I i

Prince

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Prince when he hath need of his People, will rather part with his Family and Counsellors than displease them. My Lords, this noble Lord near me hath found fault with that Precedent, which he supposes I offer'd to your Lordships concerning the chargeable Ladies at Court: But I remember no such thing I said. But if I must speak of them, I shall say as the Prophet did to King Saul, *What means the bleating of this kind of Cattle?* And I hope the King will make me the same Answer, *That he preserves them for Sacrifice, and means to deliver them up to please his People.* For there must be, in plain English, a Change; we must neither have popish Wife, nor popish Favourite, nor popish Mistress, nor popish Counsellor at Court, nor any new Convert. What I spoke was about another Lady that belongs not to the Court, but like *Sempronia* in *Cataline's* Conspiracy, does more Mischief than *Cethagus*. In this Time of Distress I could humbly advise our Prince would take the same course that the Duke of Savoy did, to suffer neither Strangers nor Ambassadors to stay above some few Weeks in this Country: For all the Strangers and Ambassadors here have served the Plot and Design against us: I am sure they have no Tie to be for us. But, my Lords, what I rose up to speak to was, more especially to my Lord of the Earl's Bench that spoke last, and sits behind me; who, as he has the greatest Influence in our present Council, so he hath let fall to you the very Root of the Matter, and the Hinges upon which all turns. He tells you, that the House of Commons have lately made Offers to the King, and he wonders we do not accept the King's Answer to them, before we enter into so hot and high Debates. He tells you, if the King be assured of Supplies, we cannot doubt of his Compliance in this and all we can ask. For otherwise the King should fall into that, which is the worst Condition of a Prince, to have his People have no Confidence in him. My Lords, this is that I know they would put the King upon, and this is that we must be ruined by, if we may not with Freedom and Plainness open our Case. My Lords, it is a very hard thing to say, that we cannot trust the King, and that we have already been deceived so often, that we see plainly the Apprehensions of Discontent in the People, is no Argument at Court. And though our Prince be in himself an excellent Person, that the People have the greatest Inclination imaginable to love; yet we may say, he is such a one as no Story affords us a Parallel of: How plain, and how many are the Proofs of the Designs to murder him? How little is he apprehensive of it? The Transactions between him and his Brother are admirable and incomprehensible: His Brother's being early known to aim at the Crown before his

his Majesty's Restoration to this Kingdom. This Match ^{Armo 32 Car.} with the *Portugal Lady*, not like to have Children, contrived ^{II. 1480.} by the Duke's Father in-Law, and no sooner effected, but the Duke and his Party made Proclamation to the World, that we are like to have no Children, but that he must be the certain Heir. He takes his Seat in Parliament as Prince of *Wales*, his Guards about him, the Prince's Lodgings at *Whitehall*, his Guards upon the same Floor, without any Interposition between him and the King; so that the King was in his Hands, and in his Power every Night; all Offices and Preferments being bestowed by him, not a Bishop made without him. This Prince changes his Religion to make himself a Party, and such a Party that his Brother must be sure to die and be made away, to make room for him: Nothing could preserve him, but that which I hope he will never do, give greater Earnest to that wicked Party than his Brother could: And after all, the Plot breaks out plainly headed by the Duke, his Interest, and his Design. How the King has behaved himself ever since the breaking out of it, the World knows; we have expected every Hour that the Court should join with the Duke against us: And it is evident more has been done to make the Plot a Presbyterian Plot, than to discover it. The Prorogations, the Dissolutions, the cutting short of Parliaments, not suffering them to have Time or Opportunity to look into any thing, have shewed what Reason we have to confide in this Court. We are now come to a Parliament again, but by what Fate or Council, for my part, I cannot guess; neither do I understand the Riddle of it. The Duke is quitted and sent away: The House of Commons have brought up a Bill to ditate him of the Crown, and I think they are so far extremely in the right; but your Lordships are wiser than I, and have rejected it: Yet you have thought fit, and the King himself hath made the Proposition, to make such Expedients as shall render him but a nominal Prince. In the mean while, where is this Duke that the King and both Houses have declared unanimously thus dangerous? Why, he is in *Scotland*, raising Forces upon the *terra firma*, that can enter dry Foot upon us, without Hazard of Wind or Seas, the very Place he should be in to raise a Party to be ready, when from hence he shall have Notice: So that this being the Case, where is the Trust? We all think the Business is so ripe, that they have the Garrisons, the Arms, Ammunition, the Seas and Soldiery, all in their Hands; they want but one good Sum of Money to set up and crown the Work, and then they have no farther need of the People; and I believe, whether they are pleased or no, will be no great Trouble to them.

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My Lords, I hear of a Bargain in the House of Commons, an Address made, and must boldly say it, and plainly, that the Nation is betrayed, if, upon any Terms, we part with our Money, till we are sure the King is ours; have what Laws you will, and what Conditions you will, they will be of no Use, but waste Paper before *Easter*, if the Court has Money to set up for Popery and arbitrary Designs, in the mean time: On the other hand, give me Leave to tell your Lordships, the King hath no Reason to distrust his People; no Man can go Home and say, that if the King complies with his People, they will do nothing for him, but tear all up from him. We want a Government, and we want a Prince that we may trust, even with the spending half our annual Revenues for some time, for the Preservation of these Nations. The growing Greatness of the *French* cannot be stopped with a little Expence, nor without a real and hearty Union of the King and his People,

‘ It was never known in *England* that our Princes wanted Supplies, either for their foreign Designs or their Pleasures; nothing ever shut our *English* Purfes, but the Fears of having their Money used against them. The Hour that the King shall satisfy the People, that what we give is not to make us Slaves and Papists, he may have whatever he will; and this your Lordships know, and all Mankind that know us: Therefore, let me plainly tell your Lordships the Arguments the present Ministers use, are to destroy the King, not to preserve him: For if the King will first see what we will do for him, it is impossible, if we are in our Senses, we should do any thing. But if he will first shew that he is entirely ours, that he weds the Interest and Religion of the Nation, it is absolutely impossible he shou’d want any thing he can ask, or we can give. But I plainly see how the Argument will be used: *Sir, they will do nothing for you; what should you do with these Men?* But on the other hand, I am bold to say, *Sir, You may have any thing of this Parliament, put away these Men, change your Principles, change your Court, and be yourself again;* for the King himself may have any thing of us. My Lords, if I have been too plain, I beg your Pardons; I thought it the Duty of a true-born *Englishman*, at this Time, to speak plainly or never. I am sure I mean well; and if any Man can answer and oppose Reason to what I alledge, I beg that he would do it: For I do not desire or propose any Question merely for talking sake. I beg this Debate may last some Days, and that we may go to the very Bottom of the Matter, and see whether these Things are so or no, and what Cure there is for the Evil that we are in; and then the Result of our Debates may produce

duce some proper Question. However, we know who hears; and I am glad of this that your Lordships have dealt so honourably and so clearly in the King's Presence and Hearing, that he cannot say he wants a right State of Things: He hath it before him, and may take Council as he thinks fit.

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The Question being afterwards put, Whether this Question shall be now put?

It was resolved in the Affirmative.

Then the main Question was put, Whether there shall be a Committee appointed, in order to join with a Committee of the House of Commons, to debate Matters concerning the State of the Kingdom?

The Question
pass'd in the
Negative.

It was resolved in the Negative.

These Lords following, before the abovesaid Question was put, desired Leave to enter their Dissents, if the Question was carried in the Negative; and accordingly do enter their Dissents and Reasons following:

Because we are fully convinced, in our Judgments, that the conferring of the Lords with the Commons, by a joint Committee of both Houses, is the most likely way to produce a good Understanding between them, which we take to be most necessary at this time for the Safety of the King's Person, and the Security of the Protestant Religion against the bloody Designs of the Papists, as also for the Redress of other Grievances, which the Nation at this time lies under.

Protest thereon.

Buckingham, Kent, Paget, Salisbury, Clare, Mulgrave, Bedford, Effix, J. Lovelace, Macclesfield, Sunderland, Delamer, Stamford, Westmoreland, Brooke, Monmouth, P. Wharton, F. Herbert.

The 25th, A Petition of *James Percy* was read, desiring a Day may be appointed for him to be heard to make out his Title to the Earldom of *Northumberland*.

*Percy's Petition
for the Earldom
of Northumber-
land.*

The Question was put, Whether this Petition shall be rejected?

It was resolved in the Affirmative.

Before the Question was put, the Earl of *Anglesea* desired Leave to enter his Dissent, if the Question was carried in the Affirmative; and accordingly enters his Dissent.

Protest thereon.

Dissentient' Anglesea; for these Reasons:

1st, Because the Claim brought by Mr. *Percy* can be heard, examined and adjudged only in this House.

2^{dly}, It is a Right due to the Subject to petition the House, and the Cause is not to be under prejudice, or rejected till heard.

3^{dly}

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3dly, It seems unprecedented, and against common Right, and the constant Course of Parliamentary Justice.

4thly, By such a way of proceeding he is barred of his Appeal from a Dismissal in a former Parliament, which he can only have in this Parliament, before the Grounds thereof are so much as examined.

The 30th, came on the Trial of the Lord Viscount *Stafford*, of which see an Abridgement in *CHANDLER's History*, Anno 32 Car II. 1680, Page 1. And,

December the 15th, His Majesty made a Speech to both Houses from the Throne, which is likewise to be found in *CHANDLER's History*, P 10.

In the Beginning of *January* the Lords pass'd the following Vote, and sent it down to the House of Commons.

Vote concern-
ing the Plot.

Resolved, by the Lords Spiritual and Temporal in Parliament assembled, that they do declare, that they are fully satisfied that there now is, and for divers Years last past, hath been a horrid and treasonable Plot contrived and carried on, by those of the Popish Religion in *Ireland*, for massacring the *English*, and subverting the Protestant Religion, and the ancient established Government of that Kingdom, to which their Lordships desire the Concurrence of this House. See *CHANDLER's Hist.* Anno 32 Car. II 1681, P. 74.

The 6th, The Lord *Dursey*, from the Commons, impeached *Richard Pours*, Earl of *Tyrone*, of High Treason.

The 7th, Articles of Impeachment against the Lord Chief Justice *Scroggs*, (which see in *CHANDLER's History*, Anno 32 Car. II 1680, P. 63, and his Lordship's Answer. P. 73,) were brought up from the Commons by the Lord *Cavendish*; and gave rise to the following Protest.

Die Veneris 7^o Januarii, 1680.

Impeachment of
Lord Chief Ju-
stice Scroggs.

Articles of Impeachment against Sir *William Scroggs* of High Treason, and other great Crimes and Misdemeanors, brought from the Commons and read.

And a Question for committing him being propounded,

The previous Question was put, Whether this Question shall be now put?

It was resolved in the Negative.

Dissentient

Protest thereon.

1st, We that are of Opinion, that he ought to be committed, are deprived of giving our Votes, by putting only the Question of Bail, we being rather for Bail than to let him go altogether free.

2dly, We are of Opinion, that this Matter hath been twice adjudged betwixt both Houses, viz, in the Case of the Earl of *Clarendon*, and the Case of the Earl of *Danby*.

Besides,

Besides, We think it very unsafe, and not agreeable to Anno 72 Car. Justice, that he should be at large and execute his Place of Lord Chief Justice, whilst he lies under the Charge of an Impeachment of High Treason. Il. 1630.

Lastly, It may deter the Witnesses, when they shall see him in such great Power and Place whom they are to accuse.

Kent, Salisbury, Macclesfield, Clare, Bedford, Manchester, Rockingham, Huntingdon, Shaftsbury, F. Herbert, Stamford, Cornwallis, Suffolk, Howard, Monmouth, Essex, P. Wharton, Grey, Paget, Rivers, Crewe.

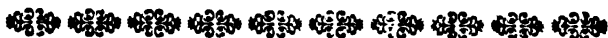
The 10th, The King came to the House, and having Parliament dissolved his Royal Assent to certain Bills, prorogued the Parliament to the 20th, but dissolved it on the Twentieth: After it had sat two Months and near three Weeks.

The Nation was at this Time in the greatest Ferment, and the King under no less Difficulties and Perplexities: But tho' his Majesty knew not how to dissolve his Parliament without calling another in the same Proclamation, yet as soon as he had given the Blow, he began to fall into new Measures and Contrivances, and to shew that he did not so much value the agreeing with his Parliaments, especially if the next should not answer his Wants and Expectations. And first he made several Removals and Alterations in his Council, and particularly the Earl of *Sunderland* was removed both from the Council and his Secretary's Place, who had voted for the Exclusion-Bill not only against the King's Court, Mind, but his express Command; which caused the Commons to hope that he would not have done so, unless he believed the King intended to comply with them at last. About the same Time the Names of the Earl of *Essex*, the Earl of *Salisbury*, and Sir *William Temple*, were struck out of the Council-Book, as Persons not proper for the present Times; tho' Sir *William* tells us that he had just then retired of himself, not expecting to be further serviceable to his Majesty's Affairs. In the room of the Earl of *Sunderland*, the Right Honourable *Edward* Earl of *Conway* was made one of the principal Secretaries of State, and took his Place in the Council, on the 2d of *February*. About the same Time the Earl of *Oxford*, the Earl of *Chesterfield*, and the Earl of *Aylesbury*, were sworn of his Majesty's Privy Council, and took their Places at the Board. Shortly after, Sir *Robert Sawyer* was sworn his Majesty's Attorney-General, in the room of Sir *Creswell Lewin*, who was made one of the Judges of the *Common Pleas*, in the Place of Sir *Thomas Ellis* deceased. And not long after that, the Earl of *Craven* was likewise sworn of his Majesty's Privy Council.

His

Anno 32 Car.
II. 1680.

His Majesty being * offended with the City of London, likewise appointed the next Parliament to be held at *Oxford*, which occasion'd some very extraordinary Incidents, as may be seen in CHANDLER's *Hist. Anno 32 Car. 1681, P. 99.*



The Fifth Parliament, or Fourth summoned by Writ, in the Reign of King CHARLES the Second.

THE 21st of March, 1680-1, this Parliament was open'd at *Oxford* by a † Speech to both Houses from the Throne, full of Severity against the late Parliament; but this weighed so little with the present, that they set out in the same Track, and drove at the Exclusion in particular, with as much Warmth as ever. This must be understood of the Commons, for with regard to the Lords, we find nothing material except the following Protest relating to the Impeachment of † *Fitzharris*.

*Fitzharris im-
peach'd.*

March the 26th, A Message was brought from the House of Commons by Sir *Leoline Jenkins* and others, in these Words: 'The Commons of *England* assembled in Parliament, having received Information of divers traiterous Practices and Designs of *Edward Fitzharris*, have commanded me to impeach the said *Edward Fitzharris* of High Treason; and I do here, in their Names, and in the Names of all

* See CHANDLER's *Hist. Anno 32 Car. II. 1681, Page 98.*

† ————— Page 101.

† Mr. *Edward Fitzharris*, the Son of Sir *Edward Fitzharris* of *Ireland*, was a particular Correspondent with the intriguing Duchess of *Portsmouth*, and her favourite Woman, *Mrs. Wall*, and likewise with the Confessor of the French Ambassador; and the Duchess had several times supply'd him with Money, and once with two hundred and fifty Pounds, either for secret Service, or Charity, as it was differently reported. *Fitzharris*, having been acquainted with one *Everard* beyond Sea, where they were both in the French King's Service, about the beginning of February, after the Dissolution of the Parliament, he renew'd his Acquaintance with that Gentleman, and represented the Advantages he might receive by forsaking the English, and entering himself into the French and Popish Interest; and particularly that it would be very conducive to that Interest, if he would publish a Pamphlet, which might so reflect upon the King, as should alienate both him and his People, and break the Union between them. Tho' *Everard* did not give full Consent to this, yet *Fitzharris*, upon the 21st of February, gave him some Heads by Word of Mouth to draw up such a Pamphlet: Which Procedure caus'd *Everard* to acquaint several with the Project, and particularly one Mr. *Smith*, and Sir *William Waller*, whom he engaged, in a conceal'd manner, to be at an appointed Place to hear the further Discourse between them, which was the

all the Commons of England, impeach Edward Fitzharris Anno 32 Car.
of High Treason: They have further commanded me to II. 1691.
acquaint your Lordships, that they will, within convenient
Time, exhibit to your Lordships the Articles of Charge a-
gainst him.

Mr.

next Day; and whither the former came, where he heard Fitzharris give his Instructions to this purpose: 'That the King and Royal Family should be traduced, as being Papists, and arbitrarily affected from the Beginning: That King Charles the First had a Hand in the Irish Rebellion, and that Charles the Second did countenance the same, by preferring Fitzgerald, Fitzpatrick, and Mountgarret, who were engaged in the said Rebellion: That the Act forbidding to call the King a Papist, was to stop Mens Mouths, when he should incline to further Popery; which appear'd by his adhering so closely to the Duke of York's Interest, and hindering him from being proceeded against by the Parliament, and hindering the Officers put in by the Duke to be turn'd out; and for that the Privy-Counsellors and Justices of the Peace, who were for the Protestant Interest, were turn'd out of all Places of Trust: That it was as much in the Power of the People to depose a Popish Possessor, as a Popish Successor, and seeing there was no Hopes, that the Parliament, when they meet at Oxford, could do any Good, the People were bound to provide for themselves.'

This being finish'd, they agreed to meet the next Day upon the same Business; and Everard sent Sir William Waller a Letter to meet him there in a conceal'd Manner, and take notice of Passages; to whom Everard, upon his coming, gave two Copies of the aforesaid Instructions, which Sir William mark'd. Soon after Fitzharris came in, and enquired of Everard what he had done; who answer'd, H. had drawn two Copies of the Business, and pray'd Fitzharris to see how he liked them: Who, upon refusal, alter'd one of them; yet thought it not full enough, but would have it fair wrote over for the French Ambassador's Confession. After which, Everard desired to give him Instructions in Writing; which Fitzharris did, and in that Paper wrote this Passage, That it was in the People's Power to depose a Popish Possessor, as well as a Popish Successor, and other treasonable Heads, and left the same with him. And next Day Fitzharris came again for a fair Copy writ out, which Everard deliver'd to him, who thereupon promised him a Recompence, which was to be the Entrance into the Business, and that Everard should be brought into the Cabal, where several Protestants and Parliament-Men were to give an Account to the French Ambassador of what was transacted. But before Fitzharris was to receive the Label, he was to go to the Lord Howard of Esrick, between whom and the Dutchess of Portsmouth, before this, he had carry'd several Messages, and went a great way towards bringing his Lordship over to the Court Interest, who had been an open Enemy to it. This was so well pursued by Fitzharris, that the Lord waited several times upon the Dutchess, and found the King there; and the Night before the Lord Stafford's Sentence, Fitzharris came to him from the King, and told his Lordship, 'That his Majesty would take it as a great Resignation to his Will and Pleasure, if his Lordship would go the next Day, and vote for my Lord Stafford.'

But, to take some Notice of the Label itself, it was entitled, The true Englishman, speaking plain English, and began thus: 'Sir, I thank you for the Character of a Popish Successor, which you sent me; wherein our just Fears, and the Grounds of them, are justly set out. But I am in greater Fear of the present Possessor: Why do we frighten ourselves about the Evil that is to come, not looking to that which is at hand?

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Mr. Attorney-General gave the House an Account of the Examinations taken against *Edward Fitzharris*, and said, *He had an Order of the King's, dated the 9th of March instant, to prosecute the said Fitzharris at Law; and accordingly he hath prepared an Indictment against him at Law.*

And

We would cut off the budding Weed, and let the poisonous Root lye still; we would stop the Channel of our Evils, and let the Fountain still run: My Meaning is this. Can Pylades know and act all these bloody Conspiracies, and not impart them to his dear Orestes? If James be conscious and guilty, Charles is so too: Believe me, these two Brethren in Iniquity are in Confederacy with the Pope and French to introduce Popery and Arbitrary Government, as all their Actions demonstrate: The Parliament, Magna Charta, and Liberty of the Subject, are as heavy Yokes, which they would cast off to be as absolute as their Brother of France; and if this can be prov'd to be their only Aim and Endeavour, why should not every true Britain be a Quaker thus far? Let the English rise, and move as one Man, to Self-defence, to open Action, and sling off their intolerable Riders: Blow the Trumpet, stand on your Guard, and withstand them as Bears and Tygers. And, since there can be no Trust given to this goodly Couple of Popish Brethren, nor no Relief expected from a Parliament, trust to your Swords, in Defence of your Lives, Laws, Religion and Properties, like the stout Earl of old, who told his King, 'That if he could not be defended by Magna Charta, he would be reliev'd by Longa Spada.' After many virulent Reflections upon the Scotch Race, speaking of the present King, he proceeds thus: 'It is not manifest therefore, That Scotch Oaths, Bred a Promise, Protestant Profession, Liberty of Conscience, War with France saving of Flanders, is all to delude Protestant Subjects? Is it not apparent that breaking of Leagues, Dutch Wars, Smyrna Fleet, French Measures to favour their Conquests, Loss of Ships, War in Christendom, Blood of Protestants, repriming of Popish Traitors, is all in earnest, and done in favour of Popery? And are not his Speeches, his true Protestant Love to Parliaments just Rights, and English Liberties, his pretended Ignorance of the Plot, and his hanging Traitors to save a Turn, but in meer Jest? Are not his great Debaucheries, his whoring Courtiers, popish Councils, cheating Rogues, hellish Plotting, his saving of Traytors, his French Pensioners, his Nests of Whores, and Swarms of Bastards, his Macks, his Cut-throats, his horrid Murders, his burning of London, his Sham-plotting, his stubborn'd Villains, his Popish Officers, his Strugglings for a Popish Successor, his Agreements with France, his frequent Dissolutions of Parliaments, his buying of Voices, and his false Returns, all of them Designs to ruin us in good earnest, and in favour of Arbitrary Government, &c.'

This Libel, as is said, was to have been promoted in the Name of the Nonconformists and Dissenters, and fixed upon them; and was to be dispersed by the Penny-post to the Protestant Lords, and leading Men in the House of Commons, who were immediately thereupon to be taken up and searched. Everard affirmed, That the Court had a Hand in it, and that the King had given Fitzharris Money, and promised him more if it met with Success: And this was the more credited, because the King himself had told Sheriff Cornish, That Fitzharris, three-Months before his Apprehension, had been with him, and acquainted him he was in pursuit of a Plot, which very much related to his Person and Government, &c. And that upon Sir William Waller's acquainting the King with the afore-said Particulars he had taken while he was concealed; tho' his Majesty shank'd him for it, and commanded Secretary Jenkins to issue out a War-

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And after long Debate the Question was put, Whether *Anno 32 Car. Edward Fitzharris* shall be proceeded with according to the Course of the common Law, and not by way of Impeachment in Parliament at this Time ? II. 1681.

It was resolved in the Affirmative.

Memorandum, That before the putting of the abovesaid Question, Leave was asked for entering Proteſtations ; which was granted.

Dissentient

Because that in all Ages it hath been an undoubted Right of the Commons to impeach before the Lords any Subject for Treasons, or any Crime whatsoever ; and the Reason is, because great Offences, that influence the Government, are most effectually determined in Parliament.

We cannot reject the Impeachment of the Commons, because that Suit or Complaint can be determined no where else ; for if the Party impeached should be indicted in the King's-Bench, or in any other Court, for the same Offence, yet it is not the same Suit ; for an Impeachment is at the Suit of the People, and they have an Interest in it ; but an Indictment is at the Suit of the King : For one and the same Offence may entitle several Persons to several Suits ; as, if a Murder be committed, the King may indict at his Suit ; or the Heir, or the Wife of the Party murdered, may bring an Appeal, and the King cannot release that Appeal, nor his Indictment prevent the Proceedings in the Appeal, because the Appeal is the Suit of the Party, and he hath an Interest in it.

It is, as we conceive, an absolute Denial of Justice, in regard (as it is said before) the same Suit can be tried no where else : The House of Peers, as to Impeachments, proceed by virtue of the judicial Power, and not by their legislative ; and as to that Act, as a Court of Record, and can deny Suitors (especially the Commons of *England*) that bring legal Complaints before them, no more than the Justices of *Westminster-Hall*, or other Courts, can deny any Suit or criminal Cause that is regularly commenced before them.

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rant for the Apprehension of Fitzharris, and that Sir William should take care of the Execution of it ; yet he was no sooner gone, but Sir William declar'd, He was inform'd by two worthy Gentlemen, that the King was highly offended with him, saying, He had broken all his Measures ; and that he would one way or other have him taken off. However, Sir William was so industrious, that in a little time he took Fitzharris, and committed him to Newgate ; in which Place he continu'd till the 11th of March, when he was suddenly removed by Orders from above, and sent close Prisoner to the Tower ; and April the 30th, was arraign'd at the King's-Bench-Bar, pleaded his Impeachment in Parliament, in Demur to the Jurisdiction of the Court, which being over-ruled, he was found guilty, condemned, and executed July the 31st.

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Our Law saith, in the Person of the King, *Nulli negabimus Justitiam, We will deny Justice to no single Person*; yet here, as we apprehend, Justice is denied to the whole Body of the People.

And this may be interpreted an exercising of an arbitrary Power, and will, we fear, have Influence upon the Constitution of the *English* Government, and be an Encouragement to all inferior Courts to exercise the same arbitrary Power, by denying the Presentments of Grand Juries, &c. for which at this time the Chief Justice stands impeached in the House of Peers.

This Proceeding may misrepresent the House of Peers to the King and People, especially at this Time, and the more in the particular Case of *Edward Fitzbarris*, who is publicly known to be concerned in vile and horrid Treasons against his Majesty, and a great Conspirator in the Popish Plot to murder the King, and destroy and subvert the Protestant Religion.

Kent, Shafisbury, Macclesfield, Herbert, Sunderland, Essex, Crewe, Bedford, Stamford, Westmorland, Salisbury. P. Wharton, Mordaunt, Grey, Paget, Cornwallis, Huntingdon, Clare, Monmouth, J. Lovelace.

The 28th, The King commanded the Commons Attendance in the House of Lords, and told them, *He perceived there were Heats between the Lords and the * Commons; and their Beginnings had been such, as he could expect no good Success of this Parliament, and therefore thought fit to dissolve them*: And accordingly the Lord Chancellor declar'd the Parliament dissolved, after it had sat but seven Days. The King immediately took Coach, and drove with all Speed to *Windfor*, leaving both Houses in an Amazement, and the City of *Oxford* in a perfect Consternation; and so the next Morning posted to *Whitehall*, seeming extremely pleased he had made his Escape, as it were, and got a Deliverance from his Fifth and Last Parliament.

Parliament dissolved.

Soon after which he published the following Declaration to all his loving Subjects, touching the Causes and Reasons that moved him to dissolve the two last Parliaments, as follows:

King's Declaration thereon.

IT was with exceeding great Trouble, that we were brought to the dissolving of the two last Parliaments, without more Benefit to our People by the calling of them: But having done our Part, in giving so many Opportunities of providing for their Good, it cannot be justly imputed to us, that the Success hath not answered our Expectations. We cannot

* See their Speeches and Votes on rejecting Fitzbarris's Impeachment in CHANDLER's Hist. Anno 35 Car. II. 1681, Page 132, &c.

cannot at this Time but take notice of the particular Causes Anno 32 Car.
of our Dissatisfaction, which at the Beginning of the last II. 1681.
Parliament we did recommend to their Care to avoid, and expected we should have had no new Cause to remember them.

We opened the last Parliament, which was held at *Westminster*, with as gracious Expressions of our Readiness to satisfy the Desires of our good Subjects, and to secure them against all their just Fears, as the weighty Consideration, either of preserving the established Religion, and the Liberty and Property of our Subjects at Home, or of supporting our Neighbours and Allies Abroad, could fill our Heart with, or possibly require from us. And we do solemnly declare, that we did intend, as far as would have consisted with the very Being of the Government, to have complied with any thing that could have been proposed to us, to accomplish those Ends. We asked of them the supporting the Alliances we had made for the Preservation of the general Peace in Christendom; we recommend to them the further Examination of the Plot; we desired their Advice and Assistance concerning the Preservation of *Tangier*; we offered to concur in any Remedies that could be proposed for the Security of the Protestant Religion, that might consist with preserving the Succession of the Crown in its due and legal Course of Descent: To all which we met with most unsuitable Returns from the House of Commons; Addresses, in the Nature of Remonstrances, rather than of Answers; arbitrary Orders for taking our Subjects into Custody, for Matters that had no relation to Privileges of Parliament; strange illegal Votes, declaring divers eminent Persons to be Enemies to the King and Kingdom, without any Order or Process of Law, any hearing of their Defence, or any Proof so much as offered against them.

Besides these Proceedings, they voted as followeth on the 7th of *January*, the two Resolves against lending of Money, and buying any Tally of Anticipation. Which Votes, instead of giving us Assistance to support our Allies, or enable us to preserve *Tangier*, tended rather to disable us from contributing to either, by our Revenue or Credit; not only exposing us to all Dangers that might happen either at Home or Abroad, but endeavouring to deprive us of the Possibility of supporting the Government itself, and to reduce us to a more helpless Condition than the meanest of our Subjects. And on the 10th of the same Month they passed another Vote against the Prosecution of Protestant Dissenters upon the Penal Laws. By which Vote, without any Regard to the Laws established, they assumed to themselves a Power of suspending

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suspending Acts of Parliament. Whereas our Judges and Ministers of Justice, neither can, nor ought, in Reverence to the Votes of either or both the Houses, break the Oaths they have taken, for the due and impartial Execution of our Laws; which by Experience have been found to be the best Support, both of the Protestant Interest, and of the Peace of the Kingdom. These were some of the unwarrantable Proceedings of that House of Commons, which were the Occasion of our parting with that Parliament.

‘ Which we had no sooner dissolved, but we caused another to be forthwith assembled at *Oxford*; at the Opening of which, we thought it necessary to give them Warning of the Errors of the former, in hopes to have prevented the like Miscarriages: And we required of them to *make the Laws of the Land their Rule, as we did, and do resolve they shall be ours.* We further added, *that what we had formerly and so often declared concerning the Succession, we would not depart from; but to remove all reasonable Fears that might arise from the Possibility of a Popish Successor's coming to the Crown, if Means could be found, that in such a Case the Administration of the Government might remain in Protestant Hands, we were ready to hearken to any Expedient, by which the Religion established might be preserved, and the Monarchy not destroyed.* But, contrary to our Offers and Expectation, we saw that no Expedient would be entertained, but that of a total Exclusion, which we had so often declared, *was a Point that, in our own Royal Judgment, so nearly concerned us both in Honour, Justice and Conscience, that we could never consent to it.* In short, we cannot, after the sad Experience we have had of the late Civil Wars, that murdered our Father of blessed Memory, and ruined the Monarchy, consent to a Law, that shall establish another most unnatural War, or at least make it necessary to maintain a Standing-Force for the preserving the Government and Peace of the Kingdom. And we have Reason to believe, by what passed in the last Parliament at *Westminster*, that if we could have been brought to give our Consent to a Bill of Exclusion, the Intent was, not to rest there, but to pass further, and to attempt some other great and important Changes, even in the present.

‘ The Business of *Fitsharris*, who was impeached by the House of Commons of High Treason, and by the House of Lords referred to the ordinary Course of Law, was on a sudden carried on to that Extremity, by the Votes which the Commons passed on the 26th of *March* last, that there was no Possibility left of Reconciliation. [*Here the three Votes were inserted.*] It was a Matter extremely sensible to us, to find

find an Impeachment made use of to delay a Trial, that we Anno 32 Car.
 had directed against a professed Papist, charged with Treas- II. 1681.
 ons against us, of an extraordinary Nature: And certainly
 the House of Peers did themselves right in refusing to give
 Countenance to such a Proceeding. But when either of the
 Houses are so far transported, as to vote the Proceedings of
 the other to be a Denial of Justice, a Violation of the Con-
 stitution of Parliaments, of Danger to our Person, and the
 Protestant Religion, without Conferences first had to exa-
 mine upon what Grounds such Proceedings were made, and
 how far they might be justified: This puts the two Houses
 out of Capacity of transacting Business together, and conse-
 quently is the greatest Violation of the Constitution of Par-
 liaments. This was the Case; and every Day's Continuance
 being likely to produce new Instances of further Heat and
 Anger between the two Houses, to the Disappointment of all
 public Ends for which they were called, we found it neces-
 sary to put an End to this Parliament likewise.

But notwithstanding all this, let not the restless Malice
 of ill Men, who are labouring to poison our People, some
 out of Fondness for their old, beloved, Common-wealth Prin-
 ciples, and some out of Anger at their being disappointed in
 the particular Designs they had for the Accomplishment of
 their own Ambition and Greatness, persuade any of our
 good Subjects, *That we intend to lay aside the Use of Parlia-
 ments:* For we do still declare, that no Irregularities in Par-
 liaments shall ever make us out of Love with Parliaments;
 which we look upon as the best Method for healing the Dis-
 tempers of the Kingdom, and the only Means to preserve the
 Monarchy in that due Credit and Respect which it ought to
 have both at Home and Abroad. And for this Cause we
 are resolved, by the Blessing of God, to have frequent Par-
 liaments; and both in and out of Parliament, to use our at-
 most Endeavours to extirpate Popery, and to redress all the
 Grievances of our good Subjects, and in all Things to go-
 vern according to the Laws of the Kingdom. And we hope
 that a little Time will so far open the Eyes of all our good
 Subjects, that our next Meeting in Parliament shall perfect
 all that Settlement and Peace, which shall be found wanting
 either in Church or State. To which, as we shall contribute
 our utmost Endeavours, so we assure ourself, that we shall be
 assisted therein by the Loyalty and good Affections of all
 those who consider the Rise and Progress of the late Trou-
 bles and Confusions, and desire to preserve their Country
 from a Relapse. And who cannot but remember, that Reli-
 gion, Liberty and Property were all lost and gone, when the
 Monarchy was shaken off; and could never be revived, till
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that was restored. *Given at our Court at White-Hall; the 8th Day of April, 1681.*

On the same Day, it was ordered by his Majesty in Council, *That the said Declaration be forthwith printed and published, and read in all Churches and Chapels throughout this Kingdom.*

The two last
Parliaments in-
dicated by Sir
William Jones.

This Declaration of the King's brought on the following Reply, entitled, *A just and modest Vindication of the Proceedings of the two last Parliaments.* By Sir William* Jones.

'The Amazement which seized every good Man upon the unlooked-for Dissolution of two Parliaments within three Months, was not greater than at the Sight of a Declaration pretending to justify, and give Reasons for such extraordinary Proceedings.

'It is not to be denied, but that our Kings have, in a great measure, been entrusted with the Power of calling and declaring the Dissolutions of Parliaments. But, lest through Defect of Age, Experience, or Understanding, they should, at any time, forget, or mistake our Constitution; or, by Passion, private Interest, or the Influence of ill Counsellors, be so far misled as not to assemble Parliaments, when the public Affairs require it; or to declare them dissolved before the Ends of their Meeting were accomplished: The Wisdom of our Ancestors has provided by divers Statutes, both for the holding of Parliaments annually, and that they should not be prorogued or dissolved till all the Petitions and Bills before them were answered and redressed. The Constitution had been equally imperfect and destructive of itself, had it been left to the Choice of the Prince whether he would ever summon a Parliament, or put into his Power to dismiss them arbitrarily at pleasure.

That Parliaments should thus meet, and thus sit, is secured to us by the same sacred Tie, by which the King at his Coronation does oblige himself, to let his Judges sit to distribute Justice every Term, and to preserve inviolably all other Rights and Liberties of his Subjects. Therefore, abruptly, to dissolve Parliaments at such a Time, when nothing but the legislative Power, and the united Wisdom of the Kingdom could relieve us from our just Fears, or secure us from our certain Dangers, is very unsuitable to the great Trust reposed in the Prince, and seems to express but little of that Affection, which we will always hope his Majesty bears towards his People and the Protestant Religion. But 'tis not only of the Dissolution itself that we complain: The manner of doing it is unwarranted by the Precedents of former Times,

* Whose shrewd Speeches see in CHANDLER'S Hist. Anno 30 Car. II. Page 30, 41, 60, 74, 84, 113, 123, 132, 135, 136.

Times, and full of dangerous Consequents. We are taught by the Writ of Summons, that Parliaments are never called without the Advice of the Council, and the Usage of all Ages has been never to send them away without the same Advice. To forsake this safe Method, is to expose the King personally to the Reflections and Censures of the whole Nation for so ungrateful an Action. Our Laws have taken Care to make the King always dear to his People, and to preserve his Person sacred in their Esteem, by wisely preventing him from appearing as Author of any thing which may be unacceptable to them. 'Tis therefore that he doth not execute any considerable Act of royal Power, till it be first debated and resolved in Council, because then 'tis the Counsellors must answer for the Advice they give, and are punishable for such Orders as are irregular and illegal. Nor can his Ministers justify any unlawful Action under the Colour of the King's Commands, since all his Commands, that are contrary to Law, are void; which is the true Reason of that well known Maxim, *That the King can do no wrong*. A Maxim just in itself, and alike safe for the Prince, and for the Subject; there being nothing more absurd, than that a Favourite should excuse his enormous Actions by a pretended Command, which we may reasonably suppose he first procured to be laid upon himself: But we know not whom to charge with advising this last Dissolution: It was a Work of Darknes; and if we are not misinformed, the Privy-Council was as much surprized at it as the Nation.

Nor will a future Parliament be able to charge any body as the Author or Adviser of the late printed Paper, which bears the Title of *his Majesty's Declaration*, tho' every good Subject ought to be careful how he calls it so. For his Majesty never speaks to his People as a King, but either personally in his Parliament, or at other times under his Seal, for which the Chancery or other Officers are responsible, if what passes them be not warranted by Law. Nor can the Direction of the Privy-Council enforce any thing upon the People, unless that royal and legal Stamp gives it an Authority. But this Declaration comes abroad without any such Sanction, and there is no other Ground to ascribe it to his Majesty, than the uncertain Credit of the Printer, whom we will easily suspect of an Imposture, rather than think the King would deviate from the approved Course of his illustrious Ancestors, to pursue a new and unsuccessful Method.

The first Declaration of this sort which I ever met with, being that which was published in the Year 1628; which was so far from answering the Ends of its coming out, that

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it filled the whole Kingdom with Jealousies, and was one of the first sad Causes of the ensuing unhappy War.

‘ The Truth is, Declarations to justify what Princes do, must always be either needless or ineffectual. Their Actions ought to be such as may recommend themselves to the World, and carry their own Evidence along with them of their Usefulness to the Public; and then no Arts to justify them will be necessary. When a Prince descends so low as to give his Subjects Reasons for what he has done, he not only makes them Judges whether there be any Weight in those Reasons, but, by so unusual a Submission, gives Cause to suspect, that he is conscious to himself that his Actions want an Apology. And if they are indeed unjustifiable, if they are opposite to the Inclinations, and apparently destructive to the Interest of his Subjects, it will be very difficult for the most eloquent or insinuating Declaration, to make them in Love with such Things. And therefore they did certainly undertake no easy Task, in pretending to persuade Men, who perceive themselves exposed to the restless Malice of their Enemies, who observe the languishing Condition of the Nation, and that nothing but a Parliament can provide Remedies for the great Evils which they feel and fear, that two several Parliaments, upon whom they had placed all their Hopes, were so suddenly broken out of Kindness to them, or with any Regard to their Advantage. It was generally believed, that this Age would not have seen another Declaration, since *Coleman's* was so unluckily published before its Time: Not only because thereby the World was taught, how little they ought to rely upon the Sincerity of such kind of Writings, but because that was a Master-piece which could hardly be equalled; and our present Ministers may well be out of Countenance, to see their Copy fall so very much short of the Original.

‘ But should this Declaration be suffered to go abroad any longer, under the royal Name, yet it will never be thought to have proceeded from his Majesty's Inclination, or his Judgment, but to be gained from him by the Artifices of the same ill Men, who, not being content to have prevailed with him to dissolve two Parliaments, only to protect them from public Justice, do now hope to excuse themselves from being thought the Authors of that Council, by making him openly to avow it. But they have discovered themselves to the Kingdom, and have told their own Names, when they number amongst the great Crimes of the House of Commons, their having declared divers eminent Persons to be Enemies to the King and Kingdom. It is our Happiness, that the Cunning of these eminent Persons is not equal to their

their Malice, in that they should thus unwarily make themselves known, when they had so secretly, and with so much Caution, given the pernicious Advice. None could be offended at the Proceedings of the Parliaments, but they who were obnoxious; none could be concerned to vindicate the Dissolution, but they who had advised it. But they have performed this last Undertaking after such a sort, that they have left themselves not only without Justification, but without all Pretence hereafter. The People were willing to think it the unfortunate Effect of some sudden and precipitate Resolution; but since they have now publicly assured us, that it was the Result of Council and Deliberation, they cannot blame us for hoping one Day to see Justice done upon such Counsellors.

• But tho', to the Dishonour of our Country, it does appear, that some *Englishmen* were concerned in the unhappy Advice of breaking the two last Parliaments, and setting up this pretended Defence of it; yet the *Gallicisms* which are found in the Paper shew the Writer to have been of another Nation, or at least to have had his Thoughts so much taken up for the Interests of *France*, (whilst he was labouring this way to heighten and perpetuate the Differences between the King and his People) that he could not express himself in any other Idiom than theirs; he would not otherwise have introduced the King, saying, That *it was a Matter extremely sensible to us*; a Form of Speech peculiar to the *French*, and unknown to any other Nation. The Reader (who understands that Language) will observe so many more of this kind, as will give him just Cause to doubt, whether the whole Paper was not a Translation, and whether the *English* one, or that which was published in *French*, was the Original?

• Let us then no longer wonder, that the Time of dissolving our Parliaments, is known at *Paris* sooner than at *London*, since it is probable, the Reasons now given for it, were formed there too. The Peers at *Oxford* were so totally ignorant of the Council, that they never once thought of a Dissolution, till they heard it pronounced; but the Dukes of *Mazarine* had better Intelligence, and published the News at *St. James's* many Hours before it was done. This Declaration was not communicated to the Privy Council till *Friday* the 8th of *April*, when his Majesty (according to the late Method) did graciously declare to them his Pleasure, to set it forth, without desiring from them any Advice in the Matter; but Monsieur *Barillon*, the *French* Ambassador, did not only read it to a Gentleman the 5th of *April*, but advised with him about it, and demanded his Opinion of it,

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which his Excellency will the better remember, because of the great Liberty which the Person took in ridiculing it to his Face. Good God! to what a Condition is this Kingdom reduced, when the Ministers and Agents of the only Prince in the World, who can have Designs against, or of whom we ought to be afraid, are not only made acquainted with the most secret Passages of State, but are made our chief Ministers too, and have the principal Conduct of our Affairs? And let the World judge if the Commons had not Reason for their Vote, when they declared those eminent Persons, who manage Things at this Rate, to be the Enemies of the King and Kingdom, and Promoters of the *French* Interest.

* Whosoever considers the Actions of our great Men, will not think it strange, that they should be hard put to it to find out Reasons which they might give for them, and they have had very ill Luck whenever they went about it. That Reason which they had given for dissolving three several Parliaments successively, is now grown ridiculous, *That the King was resolved to meet his People, and to have their Advice in frequent Parliament*, since every Man took Notice, that as soon as the Ministers began to suspect that his Majesty was inclined to hearken to, and pursue their Advice, those very Parliaments were presently dissolved. This was all the Ground and Cause, which was thought of for breaking the last Parliament at *Westminster*, when the Proclamation of the 18th of *January*, 1680, was published; but they have now consider'd better, and have found out Faults enough to swell into a Declaration, and yet, as much offended as they are with this Parliament, they seem more highly angry with that which followed at *Oxford*. Nor is it at all strange that it should fall out so: For the Court never did yet dissolve a Parliament abruptly, and in a Heat, but they found the next Parliament more averse, and to insist upon the same things with greater Eagerness than the former. *English* Spirits resent no Affronts so highly as those which are done to their Representatives; and the Court will be sure to find the Effects of that Resentment in the next Election. A Parliament does ever participate of the present Temper of the People. Never were Parliaments of more different Complexions than that of 1640, and that of 1661. Yet they both exactly answer'd the Humours which were predominant in the Nation, when they were respectively chosen. And, therefore, while the People do so universally hate and fear *France* and Popery, and do so well understand who they are who promote the *French* and popish Interests, the Favourites do but cozen themselves, to think that they will ever send up Representatives less zealous to bring them

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to Justice, than those against whom this Declaration is published. For surely this Declaration (what great things soever may be expected from it) will make but few Converts, not only because it represents things as high Crimes, which the whole Kingdom has been celebrating as meritorious Actions, but because the People have been so often deceived by former Declarations, that whatsoever carries that Name, will have no Credit with them for the future. They have not yet forgotten the Declaration from *Breda*, though others forgot it so soon, and do not spare to say, that if the same Diligence, the same earnest Solicitation, had been made use of in that Affair, which have been since exercised directly contrary to the Design of it, there is no doubt but every Part of it would have had the desired Success, and all his Majesty's Subjects would have enjoy'd the Fruits of it, and would now have been extolling a Prince so careful to keep sacred his Promises to his People. If we did take Notice of the several Declarations, published since that which we have last mentioned, we shall find they signify as little; and therefore we will only remember the last, made the 20th of *April*, 1679, and declared in Council and in Parliament, and after published to the whole Nation: Wherein his Majesty owns, that he is sensible of the ill Posture of his Affairs, and the great Jealousies and Dissatisfaction of his good Subjects, whereby the Crown and Government was become too weak to preserve itself, which proceeded from his Use of a single Ministry, and of private Advices; and therefore professes his Resolution, to lay them wholly aside for the future, and to be advised by those able and worthy Persons, whom he had then chosen for his Council, in all his weighty and important Affairs. But every Man must acknowledge, that either his Majesty has utterly forgotten this public and solemn Promise, or else that nothing weighty and important has happened from that Time to this very Day.

As for the Declaration read in our Churches the other Day, there needs no other Argument to make us doubt of the reality of the Promises which it makes, than to consider how partially, and with how little Sincerity, the things which it pretends to relate are therein represented. It begins with telling us, in his Majesty's Name, that it was with exceeding great Trouble that he was brought to dissolve the two last Parliaments, without more Benefit to the People by the calling of them. We should question his Majesty's Wisdom, did we not believe him to have understood, that never Parliaments had greater Opportunities of doing good to himself and to his People. He could not but be sensible of the Dangers, and of the Necessities of his Kingdom; and therefore could

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could not, without exceeding great Trouble, be prevailed upon for the Sake of a few desperate Men, (whom he thought himself concerned to love now, only because he had loved them too well, and trusted them too much before) not only to disappoint his own People, but almost all *Europe*. His Majesty did indeed do his Part, so far, in giving Opportunities for providing for our good, as the calling of Parliaments does amount to, and it is to be imputed to the Ministers only, that the Success of them did not answer his and our Expectations. 'Tis certain it cannot be imputed to any of the Proceedings of either of those Parliaments; which were composed of Men of as good Sense and Quality as any in the Nation, and proceeded with as great Moderation, and managed their Debates with as much Temper as ever was known in any Parliament. If they seemed to go too far in any thing, his Majesty's Speeches or Declarations has mislead them, by some of which they had been invited to enter into every one of those Debates, to which so much Exception has been since taken. Did he not frequently recommend the Prosecution of the Plot to them, with a strict and impartial Enquiry? Did he not tell them, that he neither thought himself nor them safe, till the Matter was gone through with? Did he not in his Speech of the 30th of April, 1679, assure them, that it was his constant Care to secure our Religion for the future in all Events, and that in all things which concerned the public Security, he would not follow their Zeal but lead it? Has he not often wished, that he might be able to exercise a Power of Dispensation in reference to those Protestants, who through Tenderness of misguided Conscience did not conform to the Ceremonies, Discipline and Government of the Church? And promised that he would make it his special Care to incline the Wisdom of the Parliament to concur with him, in making an Act to that Purpose? And, lest the Malice of ill Men might object, that these gracious Inclinations of his continued no longer, than while there was a Possibility of giving the Papists equal Benefit of a Toleration, has not his Majesty, since the Discovery of the Plot, since there was no Hopes of getting so much as a Connivance for them, in his Speech of the 6th of March, 1679, express'd his Zeal not only for the Protestant Religion in general, but for an Union amongst all Sorts of Protestants? And did he not command my Lord Chancellor at the same time to tell them, that it was necessary to distinguish between Popish and other Recusants, between them that would destroy the whole Flock, and them that only wander from it? These things considered, we should not think the Parliament went too far, but rather that they did not follow his Majesty's Zeal with

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an equal Pace. The Truth is, if we observe the daily Provocations of the Popish Faction, whose Rage and Insolence were only increased by the Discovery of the Plot, (so that they seemed to defy Parliaments, as well as inferior Courts of Justice,) under the Protection of the Duke (their publicly avowed Head) who still carried on their Designs by new and more detestable Methods than ever, and were continually busy by Perjuries and Subornations, to charge the best, and most considerable Protestants in the Kingdom with Treasons, as black as those of which themselves were guilty. If we observe what vile Arts were used to hinder the further Discovery, what Liberty was given to reproach the Discoverers, what Means were used to destroy or to corrupt them; how the very Criminals were encouraged and allowed to be good Witnesses against their Accusers; we should easily excuse any *English* Parliament, thus beset, if they had been carried to some little Excesses. But yet, all this could not provoke them to do any thing not justifiable by the Laws of Parliament, or unbecoming the Wisdom and Gravity of an *English* Senate.

Anno 32 Car.
H. 1681.

But we are told that his Majesty opened the last Parliament which was held at *Westminster*, with as gracious Expressions of his readiness to satisfy the Desires of his Subjects, and to secure them against all their just Fears, as the weighty Consideration, either of preserving the established Religion and Property of his Subjects at Home, or of supporting his Neighbours and Allies Abroad, could fill his Heart with. We must own that his Majesty has opened all his Parliaments at *Westminster*, with very gracious Expressions: Nor has he wanted that Evidence of his readiness to satisfy the Desires of his Subjects; but that sort of Evidence will soon lose its Force, if it be never followed by Actions correspondent, by which only the World can judge of the Sincerity of Expressions or Intentions. And therefore the Favourites did little consult his Majesty's Honour, when they bring him in solemnly declaring to his Subjects, that his Intentions were, as far as would have consisted with the very Being of the Government, to have complied with any thing that could have been proposed to him to accomplish those Ends; when they are not able to produce an Instance wherein they suffered him to comply in any one Thing. Whatsoever the House of Commons addressed for, was certainly denied, though it was only for that Reason; and there was no surer way of entitling one's self to the Favour of the Court, than to receive a Censure from the representative Body of the People. Let it for the present be admitted, that some of the things desired by that Parliament were exorbitant, and (because we will put the Objection as strong as possible) inconsistent with the very

Anno 31. Car.
II. 1682.

Being of the Government, yet, at least, some of their Petitions were more reasonable. The Government might have subsisted, though the Gentlemen, put out of the Commission of the Peace, for their zealous acting against the Papists, had been restored; nor would a final Dissolution of all things have ensued, though Sir *George Jefferies* had been removed out of public Office, or my Lord *H.* himself from his Majesty's Presence and Councils. Had the Statute of the thirty fifth of Queen Elizabeth (which had justly slept for eighty Years, and of late, been unseasonably revived) been repealed, surely the Government might still have been safe. And though the Fanatics perhaps had not deserved so well, as that, in favour to them, his Majesty should have passed that Bill: Yet, since the Repeal might hereafter be of so great Use to those of the Church of England, in case of a popish Successor, (which Blessing his Majesty seems resolved to bequeath to his People) one would have thought he might have complied with the Parliament in that Proposal: At least, we should have had less Reason to complain of the Refusal, if the King would have been but graciously pleased to have done it in the ordinary Way. But the Ministers thought they had not sufficiently triumphed over the Parliament, by getting the Bill rejected, unless it were done in such a manner, as that the Precedent might be more pernicious to Posterity, by introducing a new Negative in the making of Laws, than the losing of any Bill, how useful soever it could be to the present Age. This we may affirm, that, if the Success of this Parliament did not answer Expectation, whoever was guilty of it, the House of Commons did not fail of doing their Part. Never did Men husband their Time to more Advantage: They opened the Eyes of the Nation: They shewed them their Danger, with a Freedom becoming *Englishmen*: They asserted the People's Right of Petitioning: They proceeded vigorously against the Conspirators discovered, and heartily endeavoured to take away the very Root of the Conspiracy: They had before them as many great and useful Bills, as had been seen in any Parliament, and it is not to be laid at their Doors that they proved abortive. This Age will never fail to give them their grateful Acknowledgements, and Posterity will remember that House of Commons with Honour.

‘ We come now to the particular Enumeration of those gracious things which were said to the Parliament at *Westminster*. His Majesty asked of them *the supporting the Alliances he had made for the Preservation of the general Peace in Christendom*. 'Tis to be wished his Majesty had added to this gracious asking of Money, a gracious Communication of those Alliances, and that such blind Obedience had not been exacted

exacted from them, as to contribute to the Support of they knew not what themselves; nor before they had considered whether those Alliances which were made, were truly designed for that end which was pretended, or any way likely to prove effectual to it. Since no Precedent can be shewn, that ever a Parliament, (not even the late long Parliament, though filled with Pensioners) did give Money for maintaining any Leagues till they were first made acquainted with the Particulars of them. But besides this, the Parliament had Reason to consider well of the general Peace itself, and the Influence it might have, and had, upon our Affairs, before they came to any Resolution, or so much as to a Debate about preserving it; since so wise a Minister as my Lord Chancellor had so lately told us, *That it was fitter for Mediation than Discourse*. He informed us in the same Speech, that the Peace then was but the Effect of Despair in the Confederates, and we have since learned by whose Means they were reduced to that Despair; and what Price was demanded of the *French* King for so great a Service. And we cannot but be sadly sensible how by this Peace, that Monarch has not only quite dissolved the Confederacy formed against him, enlarged his Dominions, gained Time to refresh his Soldiers harassed with long Service, settled and composed his Subjects at Home, increased his Fleet, and replenished his Exchequer for new and greater Designs; but his Pensioners at our Court have grown insolent upon it, and, presuming, that now he may be at Leisure to assist them in ruining *England*, and the Protestant Religion together, have shaken off all dread of Parliaments, and have prevailed with his Majesty to use them with as little Respect, and to disperse them with as great Contempt, as if they had been a Conventicle, and not the great Representative of the Nation, whose Power and Wisdom only could save him and us, in our present Exigencies.

But whatever the Design of them was, or the Effect of them is like to be, yet Alliances have a very good Sound, and a Nation so encompassed with Enemies Abroad, and Traitors and Pensioners to those Enemies at Home, must needs be glad to hear of any new Friends. But alas, if we look into the Speech made at the opening of that Parliament, we shall find no mention of any new Ally except the *Spaniard*, whose Affairs at that time, through the Defects of his own Government, and the Treachery of our Ministers, were reduced to so desperate a State, that he might well be a Burden to us; but there was little to be hoped from a Friendship with him, unless by the Name of a League to recommend our Ministers to a new Parliament, and cozen Country Gentlemen out of their Money. But upon perusal of that League,

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it appears, by the third, fourth, and fifth Articles, that it was like to create us Trouble enough, for it engages us indefinitely to enter into all the Quarrels of the *Spaniards*, though they happened in the *West Indies* or the *Philippine Islands*, or were drawn upon himself by his own Injustice or causeless Provocations. By this we shall be obliged to espouse his Difference with the Duke of *Brandenburg*, though all that Duke did was according to the Law of Nations, to reprove *Spanish* Ships for a just Debt frequently demanded in vain. By this we shall be obliged to engage in his present War with the *Portuguese*, though he, by his violent seizing of the Island *St. Gabriel*, which had long been in their peaceable Possession, without once demanding it of them, has most justly provoked the *Portuguese* to invade *Spain*. Nor are we bound only to assist him in case of any Invasion; but in case of any Disturbance whatsoever, which must be intended of intestine Troubles, and it is so directly explained in the secret Article, which all *Europe* says, was signed at the same time. So that if the present King of *Spain* should imitate his great Grand-Father, *Philip* the Second, and oppress any of his Subjects, as cruelly as he did those of the *Low Countries*, to force them to a necessary Self defence; we have renounced the Policy of our Ancestors, who thought it their Interest as well as their Duty to succour the Distressed, and must not only aid him with 8000 Men for three Months, to make those People Slaves, but, if the Matter cannot be composed in that time, make War upon them, with our whole Force by Land and Sea. But that which concerns us yet nearer in this League, is, that this Obligation of Assistance was mutual, so that if a Disturbance should happen hereafter in *England*, upon any Attempt to change our Religion or our Government, though it was in the time of his Majesty's Successors, the most Catholic King is obliged by this League, (which we are still to believe was entered into for the Security of the Protestant Religion, and the Good of the Nation) to give Aid to so pious a Design, and to make War upon the People with all his Forces both by Land and Sea. And therefore it was no wonder that the Ministers were not forward in shewing this League to the Parliament, who would soon have observed all these Inconveniences, and have seen how little such a League could contribute to the preserving the general Peace, or to the securing of *Flanders*, since the *French* King may, within one Month's time, possess himself of it, and we, by the League, are not obliged to send our Succours till three Months after the Invasion. So that they would, upon the whole Matter, have been inclined to suspect, that the main End of this League was only to serve for an handsome Pretence to raise an Army in *England*,
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and if the People here should grow discontented at it, and any little Disorders should ensue, the *Spaniard* is thereby obliged to send over Forces to suppress them. Anno 32 Car. II. 1681.

‘The next thing recommended to them, was the farther Examination of the Plot, and every one who has observed what has passed for more than two Years together, cannot doubt that this was sincerely desired by such as are most in Credit with his Majesty; and then surely the Parliament deserved not to be censured upon this Account, since the Examination of so many new Witnesses, the Trial of the Lord *Stafford*, the great Preparations for the Trials of the rest of the Lords, and their diligent Enquiry into the horrid *Irish* Treasons, shew that the Parliament wanted no Diligence to pursue his Majesty’s good Intentions in that Affair. And when his Majesty desired from the Parliament their Advice and Assistance concerning the Preservation of *Tangier*, the Commons did not neglect to give it its due Consideration. They truly represented to him how that important Place came to be brought into such Exigencies, after so vast a Treasure to make it useful; and that nothing better could be expected of a Town, for the most Part put under popish Governors, and always filled with a popish Garrison. These were Evils in his Majesty’s own Power to redress, and they advised him to it; nor did they rest there, but promise to assist him in Defence of it, as soon as ever they could be reasonably secured, that any Supply which they gave for that Purpose, should not be used to augment the Strength of our popish Adversaries, and to increase their Dangers at Home.. They had more than once seen Money employed directly contrary to the End for which it was given by Parliament, and they had too good Cause of Fear it might be so again; and they knew that such a Mis-employment would have been fatal at that time. But above all they considered the eminent Danger which threatened them with certain Ruin at home; and therefore justly thought that to leave the Consideration of *England* to provide for *Tangier*, would be to act like a Man that should send his Servants to mend a Gap in his Hedge, when he saw his House on fire, and his Family like to be consumed in it. We are next told, that his Majesty offered to concur in any Remedies that could be proposed for the Security of the Protestant Religion, and we must own that he did indeed make such an Offer, but he was pleased to go no further, for those Remedies which the Commons tendered were rejected, and those which they were preparing, were prevented by a Dissolution.

‘We have seen the great Things which the King did on his Part; let us now reflect on those Instances which are singled out as so many unsuitable Returns of the Commons.

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Anno 32 Cas.
II. 1681.



They are complained of for presenting *Addresses in the nature of Remonstrances rather than Answers*. Under what unhappy Circumstances do we find ourselves, when our Representatives can never behave themselves with that Caution, but they will be mis-interpreted at Court? If the Commons had returned an Answer to his Majesty's Messages, without shewing upon what Grounds they proceeded, they had then been accused as Men acting peremptorily, and without Reason; if they modestly express the Reasons of their Resolutions, they are then said to remonstrate. But what the Ministers would have this Word *Remonstrance* signify, what Crime it is they mean thereby, to charge the Commons with, is unknown to an *English* Reader. Perhaps they who are better Critics, and more *Frenchmen*, know some pernicious Thing which it imports. If they mean by a Remonstrance, a declaring the Causes and Reasons of what they do, it will not surely be imputed as a Fault in them, since 'tis a way of Proceeding which his Majesty's Ministers have justified by their own Example, having in his Majesty's Name vouchsafed to declare the Causes and Reasons of his Actions to his People.

But the Commons made arbitrary Orders for taking Persons into Custody, for Matters that had no relation to privileges of Parliament. The Contrivers of this Declaration, who are so particular in other things, would have done well to have given some Instances of these Orders.

If they intend by these general Words, to reflect on the Orders made to take those degenerate Wretches into Custody, who published under their Hands their Abhorrence of Parliaments, and of those who, in an humble and lawful manner, petitioned for their Sitting, in a Time of such extreme Necessity; surely they are not in good earnest; they cannot believe themselves, when they say, that these Matters had no relation to Privileges of Parliament, if the Privilege of Parliament be concerned when an Injury is done to any particular Member, how much more is it touched, when Men strike at Parliaments themselves, and endeavour to wound the very Constitution? If this be said with relation to *Sheridan*, who has since troubled the World with so many idle, impudent Pamphlets upon that Account, it is plain that his Commitment was only in order to examine him about the Popish Plot, and his Endeavours to stifle it, (tho' his contemptuous Behaviour to the House deserved a much longer Confinement) and it was Insolence in him to arraign their Justice, because they did not instantly leave all their great Debates to dispatch the Business relating to him.

Thompson, of *Bristol*, was guilty of divers great Breaches of Privilege; but yet his Commitment was only in order to an Impeach-

Impeachment; and as soon as they had gone thro' with his Examination, they ordered him to be set at Liberty, giving Security to answer the Impeachment which they had voted against him. But is it a Thing so strange and new to the Authors of the Declaration, that the House of Commons should order Men to be taken into Custody for Matters not relating to Privilege? Have they not heard, that in the 4th of *Edward VI.* *Cricketoft* was committed for confederating in an Escape; that 18 *Jac.* *Sir Francis Michael* was committed for Misdemeanors, in procuring a Patent for the Forfeitures of Recognizances, together with *Fowles*, *Gerard*, and divers others, (none of which were Members of Parliament) that 20th *Jac.* *Dr. Harris* was taken into Custody for misbehaving himself in Preaching; and that 3 *Car.* *Burgeffe* was committed for Faults in Catechising, and *Levet* for presuming to exercise a Patent, which had been adjudged a Grievance by a Committee of the Commons in a former Parliament.

There would be no end of giving Instances of those Commitments, which may be observed in almost every Parliament, so that the House of Commons did but tread in the Steps of their Predecessors; and these sorts of Orders were not new, tho' the Declaration takes the Liberty to call them arbitrary. The Commons had betrayed their Trust, if they had not asserted the Right of Petitioning, which had been just before shaken by such a strange, illegal, and arbitrary Proclamation.

But now we come to the transcendent, monstrous Crimes, which can never be forgiven by the Ministers, the giving them their due Character, which every Man of Understanding had fixed upon them long before: The whole Current of their Councils being a full Proof of the Truth of the Charge. But what Colour is there for calling these Votes illegal? Is it illegal for the Commons to impeach Persons, whom they have good Reason to judge Enemies to the King and Kingdom? Is it illegal to determine by a Vote (which is the only way of finding the Sense of the House) who are wicked Counsellors, and deserve to be impeached? Could the Commons have called the Parties accused to make their Answer before themselves? Had they not a proper Time for their Defence when they came to their Trials; and might they not have cleared their Innocence much better, (if they durst have put in that Issue) by a Trial, than a Dissolution of the Parliament? But should we grant that these Votes were not made in order to an Impeachment, yet still there is nothing illegal, nothing extraordinary in them. For the Commons in Parliament have ever used two ways in deliver-

Anno 30. Geo.
II. 1681.



delivering their Country from pernicious and powerful Favourites, the one is from a parliamentary Course of Justice by impeaching them, which is used when they judge it needful to make them public Examples, by capital, or other high Punishments, for the Terror of others: The other is by immediate Address to the King to remove them as unfaithful or unprofitable Servants. Their Lives, their Liberties or Estates are never endangered, but when they are proceeded against in the former of these ways. Then legal Evidence of their Guilt is necessary; then there must be a proper Time allowed for their Defence. In the other way, the Parliament sits as the King's great Council, and when either House observe that Affairs are ill administered, that the Advice of Parliaments is rejected or slighted, the Course of Justice perverted, our Councils betrayed, Grievances multiplied, and the Government weakly and disorderly managed, (of all which our Laws have made it impossible for the King to be guilty) they necessarily must, and always have charged those who had the Administration of Affairs, and the King's Ear, as the Authors of these Mischiefs, and have from time to time applied themselves to him by Addresses, for their Removal from his Presence and Councils. There are many Things plain and evident beyond the Testimony of any Witnesses, which yet can never be proved in a legal way. If the King will hearken to none but two or three of his Ministers, must we not conclude that every thing that is done comes from their Advice? And yet, if this way of representing Things to the King were not allowed, they might easily frustrate the Enquiries of a Parliament. It is but to whisper their Councils, and they are safe. The Parliament may be busied in such great Affairs, as will not suffer them to pursue every Offender thro' a long Process; and besides, there may be many Reasons why a Man should be turned out of a Service, which perhaps would not extend to subject him to Punishment. The People themselves are highly concerned in the great Officers and Ministers of State, who are Servants to the Kingdom as well as to the King. And the Representatives of the People, the Commons, whose Business it is to present all Grievances, as they are most likely to observe soonest the Folly and Treachery of those public Servants, (the greatest of all Grievances) so this Representation ought to have no little Weight with the Prince. This was understood so well by *Henry IV.* a wise and brave Prince, that when the Commons complained against four of his Servants and Counsellors, desiring they might be removed, he came into Parliament, and there declared openly, that tho' he knew nothing against them in particular, yet he

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was assured that what the Lords and Commons desired of him, was for the Good of himself and his Kingdom ; and therefore he did comply with them, and banished those four Persons from his Presence and Councils, declaring at the same time, that he would do so by any others who should be near his Royal Person, if they were so unhappy as to fall under the Hatred and Indignation of his People. The Records and Histories of the Reigns of *Edward I.*, *Edward II.*, *Edward III.*, and indeed of all other succeeding Kings, are full of such Addressés as these ; but no History or Record can shew that ever they were called illegal or unparliamentary till now.

Anno 30 Geo.
II. 1681.

‘ Then the Ministers durst not appeal to the People against their own Representatives, but ours at present have either got some new Law in the Point, or have attained to a greater Degree of Confidence, than any that went before them. The best of our Princes have with Thanks acknowledged the Care and Duty of their Parliaments, in telling them of the Corruption and Folly of their Favourites. *Edward I.* *Henry II.* *Henry IV.* *Henry V.* and Queen *Elizabeth*, never failed to do it ; and no Names are remembered with greater Honour in the *English Annals*. Whilst the disorderly, the troublesome and unfortunate Reigns of *Henry III.* *Edward II.* *Richard II.* and *Henry VI.* ought to serve as Land marks, to warn succeeding Kings from preferring secret Councils to the Wisdom of their Parliaments.

‘ But none of the Proceedings of the House of Commons have been more censured at Court, and with less Justice, than their Vote about the Anticipation of several Branches of the Revenue. An Objection which could proceed from nothing, but a total Ignorance of the Nature of public Treasure in our own, and all other Nations, which was ever esteemed sacred and unalienable. All the Acts of Resumption in the Times of *Henry IV.* *Henry VI.* and other of our Kings, were founded upon this Maxim, otherwise there could not be conceived any grosser Injustice, than to declare Alienations to be void, which Kings had lawful Power to make. It was upon this Maxim, that the Parliament declared the Grant to the Pope of the Yearly Sum of 1000 Marks, wherewith King *John* had charged the Inheritance of the Crown to be null. It was for this Cause, that in the Year 1670, his Majesty procured an Act of Parliament, to enable him to sell the Fee-farm Rents ; and it is the best Excuse that can be made for those Ministers who, in the Year 1672, advised the postponing of all Payments to the Bankers out of the Exchequer, that they judged all Securities, by way of Anticipation of the Revenue, illegal and void in themselves.

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Anno 33 Car.
II. 1681.

Resumptions have been frequent in every Kingdom : The King of *Sweden*, within these few Months, has, by the Advice of the States, resumed all the Lands which his Predecessors had in many Years before granted from the Crown. No Country did ever believe the Prince, how absolute soever in other Things, had Power to sell or give away the Revenue of the Kingdom, and leave his Successor a Beggar. All those Acts of the *Roman* Emperors, whereby they wasted the Treasure of the Empire, were rescinded by their Successors ; and *Tacitus* observes, that the first of them, who looked upon the public Treasure as his own, was *Claudius*, the weakest and most sottish of them all. The present King of *France* did within these twelve Years, by the Consent of his several Parliaments, resume all the Demesns of the Crowns, which had been granted away by himself or his Predecessors. That haughty Monarch, as much Power as he pretends to, not being ashamed to own that he wanted Power to make such Alienations, and that Kings had that happy Inability, that they could do nothing contrary to the Laws of their Country. This Notion seems founded in the Reason of Mankind, since Barbarism itself cannot efface it. The *Ottoman* Emperors dispose arbitrarily of the Lives and Estates of their Subjects ; but yet they esteem it the most detestable Wickedness, to employ the Tributes and growing Revenues of the Provinces, (which they call the sacred Blood of the People) upon any other than public Occasions. And our Kings *Henry IV.* and *Henry VII.* understood so well the different Power they had in using their private Inheritances, and those of the Crown, that they took Care, by Authority of Parliament, to separate the Dutchy of *Lancaster* from the Crown, and to keep the Descent of it distinct. But our present Courtiers are quite of another Opinion, who speak of the Revenue of the Crown as if it were a private Patrimony, and designed only for domestic Uses, and for the Pleasures of the Prince.

The Revenues of the Crown of *England* are in their own Nature appropriated to public Service, and therefore cannot without Injustice be diverted or anticipated. For either the public Revenue is sufficient to answer the necessary Occasions of the Government, and then there is no Colour for Anticipations, or else by an extraordinary Accident the King is reduced to want an extraordinary Supply, and then he ought to resort to his Parliament. Thus wisely did our Ancestors provide, that the King and People should have frequent Need of one another, and by having frequent Opportunities of mutually relieving one another's Wants, be sure ever to preserve a dutiful Affection in the Subject, and a fatherly Tenderness

In the Prince. When the King had Occasion for the Liberty of his People, he would be well inclined to hear and redress their Grievances, and when they wanted Ease from Oppressions they would not fail with Alacrity to supply the Occasions of the Crown. And therefore it has ever been esteemed a Crime in Counsellors who persuaded the King to anticipate his Revenue, and a Crime in those who furnished Money upon such Anticipations in an extraordinary Way, however extraordinary the Occasion might be. For this Cause it was that the Parliament in the thirty fifth of *Henry VIII.* did not only discharge all those Debts which the King had contracted, but enacted that those Lenders who had been before paid again by the King, should refund all those Sums into the Exchequer, as judging it a reasonable Punishment, to make them forfeit the Money they lent, since they had gone about to introduce so dangerous a Precedent.

The true Way to put the King out of a Possibility of supporting the Government, is to let him waste in one Year that Money, which ought to bear the Charge of the Government for seven. This is the direct Method to destroy the Credit of the Crown, both abroad and at home. If the King resolve never to pay the Money which he borrows, what Faith will be given to Royal Promises, and the Honour of the Nation will suffer in that of the Prince, and if it must be put upon the People to repay it, this would be a Way to impose a Necessity of giving Taxes without End, whether they would or no. And therefore (as mercenary as they were) the Pensioners would never discharge the Revenue of the Anticipations to the Bankers. Now the Commons, having the Inconvenience of this before their Eyes in so fresh an Instance, and having their Ears filled with the daily Cries of so many Widows and Orphans, were obliged in Duty to give a public Caution to the People, that they should not run again into the same Error. Not only because they judged all Securities of that kind absolutely void, but because they knew no future Parliament could, without Breach of Trust, repay that Money, which was at first borrowed only to prevent the sitting of a Parliament; and which could never be paid, without countenancing a Method so destructive to our Constitution. Nor have former Parliaments been less careful and nice, in giving the least Allowance to any unusual Way of taking up Money, without common Consent, having so very often declared that the King cannot supply his most pressing Necessities, either by Loans or by the Benevolence of his Subjects, which, by the express Words of the Statute, are damned and annulled for ever. But the House of Commons were so cautious of giving any just Occasion of Cavil, that

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they restrained their Votes much more than they needed to have done: For they extended them only to three Branches of the Revenue, all which were by several Acts of Parliament given to his present Majesty. And surely every one will agree, that when the King receives a Gift from his People, he takes it under such Conditions, and ought to employ it in such a manner, and for such purposes as they direct. We must therefore consult the several Acts by which those Branches were settled, if we would judge rightly whether the Commons had not particular Reasons for what they did. The Statute 12 Car. II. c. 4, says, *That the Commons, reposing Trust in his Majesty, for guarding the Seas against all Persons intending the Disturbance of Trade, and the invading of the Realm, to that Intent do give him the Tonnage and Poundage, &c.* This is as direct an Appropriation as Words can make, and therefore as it is manifest Wrong to the Subject, to divert any Part of this Branch to other Uses, so for the King to anticipate it, is plainly to disable himself to perform *the Trust reposed in him.* And the late long Parliament thought this Matter so clear, that, about two Years before their Dissolution, they passed a Vote with relation to the Customs, in almost the same Words. The Parliament which gave the Excise were so far from thinking, that the King had Power to charge or dispose of it as his own, that, by a special Clause in the Act, whereby they give it, they were careful to empower him to dispose of it, or any part of it by way of Farm; and to enact that *such Contracts shall be effectual in Law, so as they be not for a longer time than three Years.* The Act, whereby the Hearth-Money was given, declares, that it was done to the end *that the public Revenue might be proportioned to the public Charge;* and 'tis impossible that should ever be, whilst it is liable to be pre-engaged and anticipated. And the Parliament was so careful to preserve this Tax always clear and uncharged, that they made it penal for any one so much as to accept of any Pension or Grant for Years, or any other Estate, or any Sum of Money out of the Revenue arising by virtue of that Act, from the King, his Heirs or Successors. Surely, if the Penner of this Declaration had not been altogether ignorant of our own Laws, and of the Policy of all other Countries and Ages, they would never have printed those Votes, in hopes thereby to have exposed the Commons to the World. They would not have had the Face to say, that thereby the King was exposed to Danger, deprived of a Possibility of supporting the Government, and reduced to a more helpless Condition than the meanest of his Subjects. This we are sure of, that if the inviolable observing of these Statutes will reduce his Majesty to a more helpless

less Condition than the meanest of his Subjects, he will still be left in a better Condition than the richest and greatest of his Ancestors, none of which were ever Masters of such a Revenue.

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II. 1581.

• The House of Commons are in the next place accused of a very high Crime, the assuming to themselves a Power of suspending Acts of Parliament, because they declared that it was their Opinion, that the Prosecution of Protestant Dissenters upon the penal Laws is at this time grievous to the Subject, a weakening of the Protestant Interest, an Encouragement to Popery, and dangerous to the Peace of the Kingdom. The Ministers remembered that, not many Years ago, the whole Nation was justly alarmed upon the assuming an arbitrary Power of suspending penal Laws, and therefore they thought it would be very popular to accuse the Commons of such an Attempt. But how they could possibly misinterpret a Vote at that rate, how they could say the Commons pretended to a Power of repealing Laws, when they only declare their Opinion of the Inconveniency of them, will never be understood, till the Authors of this are pleased to shew their Causes and Reasons for it in a second Declaration. Every impartial Man will own, that the Commons had Reason for this Opinion of theirs. They had with great Anxiety observed, that the present Design of the Papists was not against any one Sort of Protestants, but universal, and for extirpating the reformed Religion. They saw what Advantages these Enemies made of our Divisions, and how cunningly they diverted us from prosecuting them, by fomenting our Jealousies of one another. They saw the Strength and Nearness of the King of *France*, and judged of his Inclinations by his Usage of his own Protestant Subjects. They consider'd the Number, and the bloody Principles of the *Irish*, and what Conspiracies were formed there, and even ripe for Execution; and that *Scotland* was already delivered into the Hands of a Prince, the known Head of the Papists in these Kingdoms, and the Occasion of all their Plots and Insolencies, as more than one Parliament had declared. They could not but take Notice into what Hands the most considerable Trusts, both Civil and Military, were put; and notwithstanding all Addresses, and all Proclamations for a strict Execution of the penal Laws against Papists, yet their Faction so far prevailed that they were eluded, and only the dissenting Protestants smarted under the Edge of them. In the midst of such Circumstances was there not Cause to think an Union of all Protestants necessary, and could they have any just Ground to believe that the Dissenters, whilst they lay under the Pressures of severe Laws, should with such Alacrity and

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Courage as was requisite, undertake the Defence of a Country where they were so ill treated ? A long and sad Experience had shewed, how vain the Endeavours of former Parliaments had been to force us to be all of one Opinion ; and therefore the House of Commons resolved to take a sure Way to make us of one Affection. They knew that some busy Men would be striking whilst there were Weapons at hand, and therefore to make us live at Peace, they meant to take away all Occasions of provoking or being provoked. In order to a general Repeal of these Laws, they first came to a Vote declaring the Necessity of it, to which there was not one Negative in the House : A Vote of this nature does for the most part precede the bringing in of a Bill for the Repeal of any general Law. And it had been a great Presumption in a particular Member to have asked leave to have brought in a Bill for repealing so many Laws together, till the House had first declared that in their Opinion they were grievous and inconvenient. No *Englishman* could be so ignorant of our Laws, none but a *Frenchman* could have Confidence to declaim against a Proceeding so regular and parliamentary as this. Where was the *Disregard to the Laws established*, for the Commons to attempt the abrogating of a Law that is *grievous to the Subject, and dangerous to the Peace of the Kingdom* ? Is it a suspending *Acts of Parliament*, if they declare a Law to be grievous and dangerous in their Opinion, before they set about the Repeal of it ? And is there any Ground to doubt but that a Bill would have passed that House, pursuant to this Vote, had it not been prevented by a Dissolution ? Nor was there the least Direction or Signification to the Judges, which might give any Occasion for the Reflection which follows in the Declaration. The due and impartial Execution of the Laws is the unquestionable Duty of the Judges, and we hope they will always remember that Duty so well, as not to necessitate a House of Commons to do theirs, by calling them to account for making private Instructions the Rule of their Judgments, and acting as Men who have more Regard to their Places than their Oaths. 'Tis too well known who it is that solicits and manages in favour of Judges, when a House of Commons does demand Justice against them, for breaking their Oaths ; and therefore the Publishers of this Declaration had said something well, if, when they tell us the Judges ought not to break their Oaths in Reverence to the Votes of either House, they had been pleased to add, nor in respect of any Command from the King or his Favourites, then we should have no more Letters from Secretaries of State to Judges sitting upon the Bench ; then we should have no more Proclamations like that of the 14th of *Oct.* 1662, for-

forbidding the Execution of the Laws concerning Highways. Nor that of the 10th of *May*, 1672, dispensing with divers Clauses in the Acts of Parliament for Increase of Shipping; nor any more Declarations like that of the 15th of *March*, 1672, suspending the penal Laws in Matters Ecclesiastical.

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‘ But the Judges are sworn to execute all Laws; yet there is no Obligation upon any Man to inform against another. And therefore, though the Ministers prevented the Repeal of those Laws, ’tis to be hoped that this Vote will restrain every *Englishman* from prosecuting Protestants, when so wise and great a Body have declared the pernicious Effects of such a Prosecution. ’Tis most true that in *England* no Law is abrogated by Desuetude, but it is no less true that there are many Laws still unrepealed which are never executed, nor can be without public Detriment. The Judges know of many such dormant Laws, and yet they do not quicken the People to put them in Execution, nor think themselves guilty of Perjury that they do not; such are the Laws for wearing Caps, for keeping Lent, those concerning Bows and Arrows, about killing Calves, and Lambs, and many others. And those who vex Men by Information on such antiquated Laws have been ever looked upon as infamous, and Disturbers of the public Quiet. Hence it is that there are no Names remembered with greater Detestation than those of *Empson* and *Dudley*, the whole Kingdom abhorred them as Monsters in the time of *Hen. VII.* and they were punished as Traitors in the Reign of his Son.

‘ The Alteration of the Circumstances whereupon a Law was made, or if it be against the Genius of the People, or have Effects contrary to the Intent of the Makers, will soon cause any Law to be disused, and after a little Disuse, the reviving of it will be thought Oppression. Especially if experience has shewn that by the Non-execution, the Quiet, the Safety and Trade of the Nation have been promoted; of all which, the Commons, who are sent from every Part of the Kingdom, are able to make the clearest judgment. Therefore, after they have declared their Opinions of the Inconvenience of reviving the Execution of these Laws, which have lain asleep for divers Years, though the Judges must proceed, if any forward Informers should give them the Trouble, yet they would not act wisely or honestly, if they should encourage Informers, or quicken Juries by strict and severe Charges. Especially if we consider that the Lords also were preparing Bills in favour of Dissenters, and that the King has wished often it was in his Power to ease them. So that though there be no Act of Repeal formerly passed, we have the Consent and Desire of all, who have any Share in making Acts.

But

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But let this Vote have what Consequence it will, yet sure the Ministers had forgot that the Black-Rod was at the Door of the House, to require them to attend his Majesty at the very time when it was made, otherwise they would not have numbered it amongst the Causes, *which occasioned the King to part with that Parliament.* And those that knew his Majesty was putting on his Robes before that Vote passed, might imagine a Dissolution thus foreseen, might occasion it, but cannot be brought to believe, that the Vote which was not in being could occasion the Dissolution. These are the Proceedings which the Ministers judge unwarrantable in the Parliament at *Westminster*, and for which they prevailed with his Majesty to *part with it.* But since it is evident, upon Examination, that the Principles of our Constitution, the Method of Parliaments, and the Precedents of every Age, were their Guide and Warrant in all those things; surely the King must needs be alike offended with the Men about him, for persuading him to dissolve that Parliament without any Cause; and for setting forth in his Name, a Declaration of such pretended Causes as every Man almost sees through, and contrived only to cover those Reasons which they durst not own. But with what Face can they object to the House of Commons their *strange, illegal Votes, declaring divers eminent Persons to be Enemies to the King and Kingdom*, when, at the same time, they arrogate to themselves an unheard-of Authority, to arraign one of the three Estates in the Face of the World, *usurping Power over the Laws, imprisoning their Fellow Subjects arbitrarily, exposing the Kingdom to the greatest Dangers, and endeavouring to deprive the King of all possibility of supporting the Government*, and all this without Order or Process of Law, without hearing of their Defence, and as much without any Reason as Precedent. We have had Ministers heretofore so bold (yet ever with ill Success) as to accuse a pretended factious Party in the House, but never did any go so high as openly to represent the whole House of Commons as a Faction, much less to cause them to be denounced such in all the Churches of the Kingdom, that so the People might look upon it as a kind of Excommunication. But if they erred in the thing, they judged rightly in the Choice of the Persons who were to publish it. Blind Obedience was requisite, where such unjustifiable things were imposed, and that could be no where so entire, as amongst those Clergymen, whose Preferment depended upon it. Therefore it was ordered that this Declaration should be read by them, being pretty well assured that they would not unwillingly read in the Desk a Paper so suitable to the Doctrine which some of them had often declared in the Pulpit. It did not become them to enquire

enquire whether they had sufficient Authority for what they Anno 32 Car.
 did, since the Printer called it the King's Declaration, and II. 1631.
 whether they might not one Day be called to account for publishing it; nor once to ask, if what his Majesty singly ordered when he sat in Council, and came forth without the Stamp of the Great Seal, gave them a sufficient Warrant to read it publicly.

* Clergymen seldom make Reflections of this kind, lest they should be thought to dispute the Commands of their Superiors. It hath been observed, that they who allow unto themselves the Liberty of doubting, advance their Fortunes very slowly, whilst such who obey without Scruple, go on with a Success equal to their Ambition. And this carries them on without Fear or Shame, and with as little Thought of a Parliament, as the Court-Favourites, who took care to dissolve that at *Oxford*, before they durst tell the Faults of that at *Westminster*.

* We have already answered the Miscarriages objected to the first, and may now take a view of those imputed to the other, which they say was assembled as soon as that was dissolved, and might have added dissolved as soon as assembled; the Ministers having employed the People forty Days in choosing Knights and Burgesses, to be sent home in eight, with a Declaration after them, as if they had been called together only to be affronted. The Declaration doth not tell us of any gracious Expressions used at the opening of that Parliament, perhaps because the Store was exhausted by the abundance which his Majesty was pleased to bestow on them in his former Speeches. But we ought to believe that his Majesty's Heart was as full of them as ever, and if he did not express them, it is to be imputed unto the Ministers, who diverted him from his own Inclinations, and brought him to use a Language, until that Day unknown unto Parliaments. The gracious Speech then made, and the gracious Declaration that followed, are so much of a Piece, that we may justly conclude the same Persons to have been Authors of both. However, his Majesty failed not to give good Advice unto them, who were called together to advise him. The Parliament had so much Respect for their King, as not particularly to complain of the greatest Invasion that was made upon their Liberty of proposing and debating Laws, by his telling them beforehand what things they should meddle with, and what things no Reasons they could offer, should persuade him to consent unto.

* But every Man must be moved to hear it charged upon them as an unpardonable Disobedience, that they did not obsequiously submit to that irregular Command, of not touching
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on the Business of Succession. Shall two or three unknown Minions take upon them, like the Lords of the Articles of *Scotland*, to prescribe unto an *English* Parliament what things they shall treat of? Do they intend to have Parliaments *instrumenta servitutis*, as the Romans had Kings in our Country? This would quickly be, if what was then attempted had succeeded, and should be so pursued hereafter, that Parliaments should be directed what they were to meddle with, and threatened if they do any other thing. For the loss of Freedom of Debate in Parliament, will soon and certainly be followed by a general Loss of Liberty. Without failing in the Respect which all good Subjects owe unto the King, it may be said that his Majesty ought to divest himself of all private Inclinations, and force his own Affections to yield unto the public Concernment: And therefore his Parliaments ought to inform him impartially of that which tends to the Good of those they represent, without regard of personal Passions, and might worthily be blamed if they did not believe, that he would forego them all for the Safety of his People. Therefore, if in itself it was lawful to propose a Bill for excluding the Duke of *York* from the Crown, the doing it after such an unwarrantable Signification of his Pleasure, would not make it otherwise. And the unusual Stiffness which the King hath shewn upon this Occasion, begins to be suspected, not to proceed from any Fondness to the Person of his Brother, much less from any Thought of Danger to the *English* Monarchy by such a Law, but from the Influence of some few ill Men upon his Royal Mind, who, being Creatures to the Duke, or Pensioners to *France*, are restless to prevent a good Understanding between the King and his People; justly fearing, that if ever he comes to have a true Sense of their Affections to him, he would deliver up to Justice these wicked Wretches, who have infected him with the fatal Notion, that the Interest of his People are not only distinct but opposite to his.

His Majesty does not seem to doubt of his Power in Conjunction with his Parliament, to exclude his Brother. He very well knows this Power hath been often exerted in the Time of his Predecessors. But the Reason given for his Refusal to comply with the Interests and Desires of his Subjects, is, because it was a Point which concerned him so near in Honour, Justice and Conscience. Is it not honourable for a Prince to be true and faithful to his Words and Oath? To keep and maintain the Religion and Laws established? Nay, can it be thought dishonourable unto him, to love the Safety and Welfare of his People, and the true Religion established among them, above the temporal Glory and

and Greatness of his personal Relations? Is it not just, in Anne 32 Car. II. 1681. Conjunction with his Parliament, for his People's Safety, to make use of a Power warranted by our *English* Laws, and the Examples of former Ages? Or is it just for the Father of his Country to expose all his Children to Ruin, out of Fondness unto a Brother? May it not rather be thought unjust to abandon the Religion, Laws, and Liberties of his People, which he is sworn to maintain and defend, and expose them to the Ambition and Rage of one that thinks himself bound in Conscience to subvert them? If his Majesty is pleased to remember what Religion the Duke professeth, can he think himself obliged in Conscience, to suffer him to ascend the Throne, who will certainly endeavour to overthrow it, and set up the worst of Superstitions and Idolatry in the room of it? Or if it be true, that all Obligations of Honour, Justice, and Conscience are comprehended in a grateful Return of such Benefits as have been received, can his Majesty believe that he doth duly repay unto his Protestant Subjects the Kindness they shewed him, when they recalled him from a miserable, helpless Banishment, and with so much dutiful Affection placed him on the Throne, enlarged his Revenue above what any of his Predecessors had enjoyed, and gave him vastly more Sums of Money in twenty Years, than had been bestowed upon all the Kings since William I. should he, after all this, deliver them up to be ruined by his Brother? It cannot be said that he had therein more Regard unto the Government, than to the Person, seeing it is evident the Bill of Exclusion had no ways prejudiced the legal Monarchy, which his Majesty doth now enjoy with all the Rights and Powers which his wise and brave Ancestors did ever claim, because many Acts of the like nature have passed heretofore upon less necessary Occasions.

The Preservation of every Government depends upon an exact Adherence unto its Principles, and the essential Principle of the *English* Monarchy being that well proportioned Distribution of Powers, whereby the Law doth at once provide for the Greatness of the King, and the Safety of the People, the Government can subsist no longer, than whilst the Monarch, enjoying the Power which the Law doth give him, is enabled to perform the Part it allows unto him, and the People are duly protected in their Rights and Liberties. For this Reason our Ancestors have been always more careful to preserve the Government inviolable, than to favour any personal Pretences, and have therein conformed themselves to the Practice of all other Nations, whose Examples deserve to be followed. Nay, we know of none so slavishly addicted unto any Person or Family,

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mily, as, for any Reason whatsoever, to admit of a Prince who openly professed a Religion contrary to that which was established amongst them. It were easy to alledge Multitude of Examples of those who have rejected Princes for Reasons of far less Weight than Difference in Religion, of *Robert of Normandy*, *Charles of Lorraine*, *Alphonso a Desperado* of *Spain*; but those of a later Date, against whom there was no other Exception than for their Religion, suiteth better with our Occasion. Among whom, it is needless to name *Henry of Bourbon*, who, tho' accomplished in all the Virtues required in a Prince, was, by the general Assembly of the Estates at *Blais*, declared incapable of Succession to the Crown of *France*, for being a Protestant. And notwithstanding his Valour, Industry, Reputation and Power increased by gaining four great Battles, yet he could never be admitted King, till he had renounced the Religion that was his Obstacle. And *Sigismund*, Son of *John* of *Sweden*, King of that Country by Inheritance, and of *Poland* by Election, was deprived of his hereditary Crown, and his Children disinherited, only for being a Papist, and acting conformably to the Principles of that Religion, tho', in all other Respects, he deserved to be a King, and was most acceptable unto the Nation.

‘ But if ever this Maxim deserved to be considered, surely it was in the Case of the Duke of *York*. The Violence of his natural Temper is sufficiently known; his Vehemence in exalting the Prerogative (in his Brother's Time) beyond its due Bounds, and the Principles of his Religion, which carry him to all imaginable Excesses of Cruelty, have convinced all Mankind that he must be excluded, or the Name of King being left unto him, the Power put into the Hands of another. The Parliament therefore, considering this, and observing the Precedents of former Ages, did wisely chuse rather to exclude him, than to leave him the Name, and place the Power in a Regent. For they could not but look upon it as Folly, to expect that one of his Temper, bred up in such Principles of Politics, as made him in Love with arbitrary Power, and bigotted in that Religion, which always propagates itself by Blood, would patiently bear these Shackles, which would be very disgustful unto a Prince of the most meek Disposition. And would he not thereby have been provoked to the utmost Fury and Revenge, against those who laid them upon him? This would certainly have bred a Contest; and these Limitations of Power proposed to keep up the Government, must unavoidably have destroyed it, or the Nation (which Necessity would have forced into a War in its own natural Defence) must have perished either by it or with it. The Success of such Controversies are in the

the Hand of God; but they are undertaken upon too unequal Terms, when the People by Victory can gain no more, than what without Hazard may be done By Law, and would be ruined if it should fall out otherwise. The Duke with Papists might then make such a Peace, as the *Romans* are said to have made once in our desolated Country, by the Slaughter of all the Inhabitants able to make War, *Et ubi solitudinem faciunt, pacem appellant*. This is the happy State they present unto us, who condemn the Parliament for bringing in a Bill of Exclusion. This is the way to have such a Peace as the *Spaniards*, for the Propagation of the Gospel, made in the *West-Indies*, at the Instigation of the Jesuits, who governed their Councils. And seeing they have the Duke no less under their Power and Directions, we may easily believe they would put him upon the same Methods. But as it is not to be imagined, that any Nation that hath Virtue, Courage, and Strength equal unto the *English*, will so tamely expect their Ruin, so the passing a Bill to exclude him may avoid, but cannot (as the Declaration phrases it) establish a War. But if there must be a War, let it be under the Authority of Law; let it be against a banished excluded Pretender. There is no fear of the Consequence of such a War. No true *Englishman* can join with him, or countenance his Usurpation after this Act; and for his popish and foreign Adherents, they will neither be more provoked, nor more powerful by the passing of it. Nor will his Exclusion make it at all necessary to maintain a Standing-Force, for preserving the Government, and the Peace of the Kingdom. The whole People will be an Army for that Purpose, and every Heart and Hand will be prepared to maintain that so necessary, so much desired Law. A Law, for which three Parliaments have been so earnest with his Majesty, not only in pursuance of their own Judgments; but by the Direction of those that sent them. It was the universal Opinion of the Papists, that *Mary Queen of Scots* was excluded only by an Act of Parliament, and yet we see *Queen Elizabeth* reign'd gloriously and peaceably forty Years, without any Standing-Force. But our Ministers do but dissemble with us, when they pretend to be so much afraid of a Standing-Army. We know how eagerly they have desired, and how often they attempted to establish one. We have seen two Armies raised with no other Design, as has been since undeniably proved, and one of those they were so loth to part with, that more than one Act of Parliament was necessary to get it disbanded. And since that, they have increased the Guards to such a Degree, that they are become a formidable Standing-Force. A Thing so odious to a free People, that the

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raising one single Regiment in *Spain*, within these six Years, under colour of being a Guard for the King's Person, so inflamed the Nation, that a Rebellion had ensued, if they had not been disbanded speedily. The Nobility and Gentry of that Kingdom, looking upon themselves as their King's natural Guard, scorned that so honourable a Name should be given to Mercenaries.

But as his Majesty was persuaded to resolve against the Expedient proposed, to secure our Peace by excluding the Duke, so it is evident that nothing was intended by those other ways, which were darkly and dubiously intimated in his Majesty's Speech unto the Parliament at *Oxford*, and repeated in the Declaration; and his Majesty in his Wisdom could not but know that they signified nothing. And those who spake more plainly in proposing a Regency as an Expedient, did in public and private declare, they believed the Duke would not consent unto it, nor unto any unusual Restriction of the royal Power. So that they could have no other Design therein, than a plausible Pretence to delude the Parliament and People. Some such Consideration induced them to revive the Distinction between the King's personal and politic Capacity, by separating the Power from the Person, which we have Reason to believe they esteemed unfeasible. However, it is more than probable that the Jesuits, Casuists, and popish Lawyers would reject it, as well as any thing else that might preserve us from falling under his Power. And the Pope who could absolve King *John, Henry III.* and others, from the Oaths they had taken, to preserve the Rights and Liberties of their Subjects, might, with the same Facility, dissolve any that the Duke shall take. And as our Histories testify what bloody Wars were thereby brought upon the Nation, we have Reason to believe, that, if the like should again happen, it would be more fatal unto us, when Religion is concerned, which was not then in Question. Would not his Confessor soon convince him, that all Laws made in favour of Heresy are void? And would he not be liable to the heaviest Curses, if he suffered his Power to be used against his Religion? The little Regard he hath to Laws, whilst a Subject, is enough to instruct us what Respect he would bear to them, if he should be a King. Shall we therefore suffer the Royal Dignity to descend on him, who hath made Use of all the Power, he hath been entrusted with hitherto, for our Destruction? And who shall execute this great Trust? The next Heir may be an Infant, or one willing to surrender it into his Hands. But should it be otherwise, yet still there is no Hope of having any Fruit of this Expedient without a War, and to be obliged

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to swear Allegiance to a popish Prince, to own his Title, to acknowledge him supreme Head of the Church, and Defender of the Faith, seems a very strange way of entitling ourselves to fight with him.

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‘ The two Reasons which the Declaration pretends to give against the Exclusion, are certainly of more Force against the Expedient. A Standing-Force would have been absolutely necessary to have placed and kept the Administration in Protestant Hands; and the Monarchy itself had been destroyed by a Law, which was to have taken all sort of Power from the King, and made him not so much as a Duke of *Venice*. How absurdly and incoherently do these Men discourse? Sometimes the Government is so divine a Thing, that no human Law can lessen or take away his Right, who only pretends in Succession, and is at present but a Subject. But at other times they tell us of Acts of Parliament to banish him out of his own Dominions, to deprive him of all Power, of his whole Kingdom, after he shall be in Possession of the Throne. The Cheat of this Expedient appeared so gross in the House of Commons, that one of the Duke’s professed Vassals, who had a little more Honour than the rest, was ashamed of it, and openly renounced the Project which they had been forming so long, and thought they had so artfully disguised. But tho’ it was so well exposed in the House, yet the Ministers thought the Men without Doors might be still deceived, and therefore they do not blush to value themselves again upon it in their Declaration.

‘ As for the Insinuation which follows, that there was Reason to believe that the Parliament would have passed further to attempt other great and important Changes at present. If it be meant any Change of the Constitution of the Government, it is a malicious Suggestion of those Men, who are ever instilling into his Majesty’s Mind ill Thoughts of his Parliament; since no Vote nor Proposition in either House could give any Ground for such Suspicion, and therefore in this Matter the People may justly accuse the Court, (who so often cry out against them for it) of being moved by causeless Fears and Jealousies. And for his Majesty to be persuaded to arraign the whole Body of his People, upon the ill-grounded Surmises, or malicious and false Suggestions of evil and corrupt Men about him, doth neither well become the Justice of a Prince, nor is agreeable to the Measures of Wisdom, which he should govern himself, as well as rule his People by. And if an Attendance to the slanderous Accusations of Persons who hate Parliaments, because their Crimes are such that they have Reason to fear them, govern and sway his Royal Mind, there can never want Grounds
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for the Dissolutions of any Parliaments. But if they mean, by attempting great and important Changes, that they would have besought his Majesty, that the Duke might no longer have the Government in his Hands, that his Dependants should no longer preside in his Councils, no longer possess all the great Trusts and Offices in the Kingdom; that our Ports, our Garrisons, and our Fleets should be no longer governed by such as are at his Devotion; that Characters of Honour and Favour should be no longer placed on Men, that the Wisdom of the Nation hath judged to be Favourers of Popery, or Pensioners of *France*. These were indeed great and important Changes, but such as it becomes *Englishmen* to believe were designed by that Parliament: Such as will be designed and pressed for by every Parliament, and such as the People will ever pray, may at last find Success with the King. Without these Changes the Bill of Exclusion would only provoke, not disarm our Enemies, nay, the very Money which we must have paid for it, would have been made use of to secure and hasten the Duke's Return upon us.

• We are now come to the Consideration of that only Fault which was peculiar to the Parliament at *Oxford*, and that was their Behaviour in relation to the Business of *Fitzbarris*. The Declaration says, he was impeached of High-Treason by the Commons, and they had Cause to think his Treasons to be of such an extraordinary Nature, that they well deserved an Examination in Parliament. For *Fitzbarris*, a known *Irish*-Papist, appeared by the Informations given in the House, to be made use of by some very great Persons to set up a counterfeit Protestant-Conspiracy, and thereby not only to drown the Noise of the Popish Plot, but to take off the Heads of the most eminent of those, who still refused to bow their Knees to *Baal*. There had been divers such honest Contrivances before, which had unluckily failed, but the principal Contrivers avoided the Discovery, as the others did the Punishment; in what manner, and by what Helps, the whole Nation is now pretty sensible. Being warned by this Experience, they grew more cautious than ever, and therefore that the Treason which they were to set on foot, might look as unlike a popish Design as was possible, they framed a Libel full of the most bitter Investives against Popery and the Duke of *York*; it carried as much seeming Zeal for the Protestant Religion, as *Coleman's* Declaration, and as much Care and Concern for our Laws, as the Penner of this Declaration would seem to have. But it was also filled with the most subtle Insinuations, and the sharpest Expressions against his Majesty that could be invented, and with direct
and

and passionate Incitements to Rebellion. This Paper was to be conveyed by unknown Messengers, to their Hands who were to be betrayed, and then they were to be seized upon, and those Libels found about them were to be a Confirmation of the Truth of a Rebellion, which they had provided Witnesses to swear was designed by the Protestants, and had before prepared Men to believe by private Whispers. And the Credit of this Plot should no doubt have been soon confirmed, by speedy Justice done upon the pretended Criminals. But as well laid as Contrivance seems to be, yet it spoke itself to be of a Popish Extraction. 'Tis a Policy the Jesuits have often used to, to divert a Storm which was falling upon themselves. Accordingly heretofore they had prepared both Papers and Witnesses, to have made the *Puritans* guilty of the Gun-powder Treason, had it succeeded as they hoped for.

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The heinous Nature of the Crime, and the Greatness of the Persons supposed to be concerned, deserved an extraordinary Examination, which a Jury, who were only to enquire whether *Fitzbarris* was guilty of framing that Libel, could never make; and the Commons believed none but the Parliament was big enough to go through with. They took notice that the Zeal or Courage of inferior Courts was abated, and that the Judges at the Trial of *Wakeman* and *Gascoign* (however it came to pass) behaved themselves very unlike the same Men they were, when others of the Plotters had been tried. They had not forgot another Plot of this Nature discovered by *Dangerfield*, which though plainly proved to the Council, yet was quite stifled by the great Diligence of the King's-Bench, which render'd him as an incompetent Witness. Nor did they only fear the Perversion of Justice, but the Misapplication of Mercy too. For they had seen that the Mouths of *Gadbury* and others, as soon as they began to confess, were suddenly stoppt by a gracious Pardon. And they were more jealous than ordinary in this Case, because, when *Fitzbarris* was inclined to Repentance, and had begun a Confession, to the Surprize of the whole Kingdom, without any visible Cause, he was taken out of the lawful Custody of the Sheriffs, and shut up a close Prisoner in the *Tower*. The Commons therefore had no other Way to be secure that the Prosecution should be effectual, the Judgment indifferent, and the Criminal out of all Hopes of a Pardon (unless by an ingenuous Confession he could engage both Houses in a powerful Mediation to his Majesty in his behalf) but by impeaching of him. They were sure no Pardon could stop their Suit, though the King might release his own Prosecution by his Pardon.

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‘ Hitherto the Proceedings of the Commons in this Buſi-
neſs could not be liable to Exception, for that they might
lawfully impeach any Commoner before the Lords, was yet
never doubted. The Lords themſelves had agreed that Point,
when the Day before they had ſent down the Plea of Sir
William Scroggs to an Impeachment of Treason, then depend-
ing before them. And they are Men of ſtrange Confidence
who at this time of day take upon them to deny a Jurisdiction
of the Lords, which hath been praſtiſed in all times without
Controul, and ſuch a Fundamental of the Government, that
there could be no Security without it; were it otherwiſe, it
would be in the Power of the King, by making Commoners
Ministers of States, to ſubvert the Government by their Con-
trivances when they pleaſed. Their Greatneſs would keep
them out of the Reach of ordinary Courts of Juſtice, and
their Treasons might not perhaps be within the Statutes, but
ſuch as fall under the Cognizance of no other Court than the
Parliament; and if the People might not of Right demand
Juſtice there, they might without Fear of Punishment aſſ
the moſt deſtructive Villanies againſt the Kingdom.

‘ As a Remedy againſt this Evil, the Mirror of Juſtice tells
us, that *Parliaments were ordained to hear and determine all
Complaints of wrongſul Acts, done by the King, Queen, or their
Children, and ſuch others againſt whom common Right cannot be
had elſewhere.* Which, as to the King, is no otherwiſe to be
underſtood, than that if he err by illegal, perſonal Commands
or Orders, he is to be admoniſhed by Parliament, and addreſſed
unto for Remedy; but all others, being but Subjects, are to
be puniſhed by Parliaments, according to the Laws of Par-
liaments.

‘ If the Ends were well conſidered, for which Parliaments
were ordained, as they are declared in the Statute; *Item, for
Maintenance of the ſaid Articles and Statutes, (viz. Magna
Charta, &c.)* a Parliament ſhould be holden every Year, by
them as well as by the foregoing ancient Authority, none
could be deceived by the Parliament, *Roll. of 4. Edw. III.*
where it is mentioned as accorded between the King and his
Grands, (that is, his Lords) that Judgment of Death, given
by the Peers againſt Sir *Simon de Beresford, Matreover* and
others, upon the Murder of King *Edward* the Second, and
his Uncle, ſhould not be drawn into Example, whereby the
Peers might be charged to judge others than their Peers,
contrary to the Laws of the Land, if ſuch a Caſe ſhould happen.
For, whereas from this Record, ſome would perſwade us that
the Lords are diſcharged from judging Commoners, and that
our antient Government is altered in this Caſe by that Re-
cord, which they ſay is an Act of Parliament, the Stile and
Form of it is ſo different from that which is uſed in Acts of
Par-

Parliament, that many are inclined to believe it to be no other thing, than an Agreement between the King and the Lords. But, to remove all future Scruples in the Case, let it be admitted to be an Act of Parliament, and if there be nothing accorded in it, to acquit the Lords from trying Commoners impeached before them by the Commons in Parliament, then we hope that Shame will stop their Mouths, who have made such a Noise against the Commons with this Record.

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First, It is evident from the Roll itself with other Records, that the Lords did judge those Commoners contrary to the Law of the Land, that is, at the Instance of the King, and the Prosecution of their Enemies, without the due Course of the Law; or calling them to make their Defence, and (for aught appears) without legal Testimony.

Secondly, It is evident, that they were driven upon this illegal Proceeding, by the Power and Authority of the King, and some Prosecutors, who earnestly pressed the Lords thereunto, upon pretence of speedily avenging the Blood of the former King and his Uncle. So that Judgment was given at the King's Suit, in a way not warranted by the Law and Custom of Parliament, or any other Law of the Kingdom. Surely when the Lord's Blood was suffered to cool, they had Reason to desire something might be left upon Record, to preserve them for the future from being put upon such shameful Work, though such a Case as the Murder of a King should again happen, as it seems they did not fear to be pressed in any other, so to violate the Laws.

But Thirdly, There is not a Word in the Record, that imports a Restriction of that lawful Jurisdiction, which our Constitution placeth in the Lords to try Commoners, when their Cases should come before them lawfully, at the Suit of the Commons by Impeachment. There is no Mark of an Intention to change any Part of the antient Government, but to provide against the Violation of it, and that the Law might stand as before, notwithstanding the unlawful Judgment they had lately given. So that the Question is still the same, whether by the Law of the Land, that is, the Law and Custom of Parliament, or any other Law, the Lords ought to try Commoners impeached by the Commons in Parliament, as if that Record had never been. And we cannot think that any Man of Sense will from that Record make an Argument in this Point, since it could be no better than to infer, that, because the Lords are no more to be pressed by the King, or at his Suit, to give Judgment against Commoners contrary to the Law of the Land, when they are not impeached in Parliament, therefore they must give no Judgment against them at the Suit of the Commons in Parliament,

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when they are by them impeached, according to the Laws and Customs of Parliament. But if such as delight in these Cavils had searched into all the Records relating unto that of the 4th *Edward* III. They might have found in the 19th of the same King, a Writ issued out to suspend the Execution of the Judgment against *Matrevers*, because it had been illegally passed. And the chief Reason therein given, is, that he had not been impeached, and suffered to make his Defence. But it was never suggested nor imagined, that the Lords who judged him had no Jurisdiction over him because he was a Commoner, or ought not to have exercised it, if he had been impeached. Nor was it pretended, that by *Magna Charta* he ought to have been tried only by his Peers; the Law of the Land therein mentioned, and the Laws and Customs of Parliaments, being better known, and more revered in those Days, than to give way to such a Mistake. They might also have found by another Record of the 26th of the same King, that, by undoubted Act of Parliament, *Matrevers* was pardoned, and the Judgment is therein agreed by the Lords and Commons to have been illegal, and unjustly passed by the violent Prosecution of his Enemies, but it is not alledged that it was *coram non judice*, as if the Lords might not have judged him, if the Proceedings before them had been legal. But, as the Sense and Proceedings of all Parliaments have ever been best known by their Practice, the Objectors might have found, by all the Records since the 4th *Edw.* III. that Commoners, as well as Lords, might be, and have been impeached before Lords, and judged by them to capital or other Punishments, as appears undeniable to every Man that hath read our Histories or Records. And verily the concurrent Sense, and Practice of Parliaments for so many Ages, will be admitted to be a better Interpretation of their own Acts, than the Sense that these Men have lately put upon them to increase our Disorders. But, to silence the most Malicious in this Point, let the famous Act of the 25th *Edw.* III. be considered, which hath ever since limited all inferior Courts in their Jurisdiction, unto the Trial of such Treasons only as are therein particularly specified, and reserved all other Treasons to Trial and Judgment of Parliament. So that if any such be committed by Commoners, they must be so tried, or not at all. And if the last should be allowed, it will follow that the same Fact which in a Peer is Treason, and punishable with Death, in a Commoner is no Crime, and subject to no Punishment.

Nor doth *Magna Charta* confine all Trials to common Juries, for it ordains that they shall be tried by the Judgment of Peers, or by the Law of the Land. And will any Man say

say the Law of Parliament is not the Law of the Land? Anno 32 Car.
Nor are these words in *Magna Charta* superfluous or insignificant, for then there would be no Trial before the Constable or Marshal, where is no Jury at all. There could be no Trial

of a Peer of the Realm upon any Appeal of Murder, who, according to Law, ought in such Cases to be tried by a common Jury and by his Peers. And, since the Records of Parliaments are full of Impeachments of Commons, and no Instance can be given of the Rejection of any such Impeachment, it is the Commons who have Reason to cite *Magna Charta* upon this Occasion, which provides expressly against the Denial of Justice. And indeed it looks like a Denial of Justice, when a Court, that hath undoubted Cognizance of a Cause regularly brought before them, shall refuse to hear it. But most especially, when (as in this Case) the Prosecutors could not be so in any other Court, so as a final Stop was put to their Suit, though the Lords could not judicially know, whether any body else would prosecute elsewhere.

This Proceeding of the Lords looks the more odly, because they rejected the Cause, before they knew as Judges what it was, and referred it to the ordinary Course of Law, without staying to hear, whether it were a Matter whereof an inferior Court could take Cognizance. There are Treasons which can only be adjudged in Parliament, and if we may collect the Sense of the House of Commons from their Debates, they thought there was a Mixture of those kind of Treasons in *Fitzbarris's* Case. And therefore there was little Reason for that severe Suggestion, that the Impeachment was only designed to delay a Trial, since a compleat Examination of his Crime could be had no where but in Parliament. But it seems somewhat strange, that the delaying of a Trial, and that against a professed Papist charged with Treason, should be a matter so extremely *sensible*: For might it not be well retorted by the People, that it had been long a Matter extremely *sensible* to them, that so many Prorogations, so many Dissolutions, and so many other Arts had been used to delay the Trials, which his Majesty had often desired, and the Parliament prepared for against five professed popish Lords charged with Treasons of an extraordinary nature. But above all, it was a Matter extremely *sensible* to the whole Kingdom, to see such unparliamentary and mean Solicitations, used to promote this pretended Rejection of the Commons Accusation, as are not fit to be remembered. 'Tis there that the Delay of the Trial is to be laid; for, had the Impeachment been proceeded upon, and the Parliament suffered to sit, *Fitzbarris* had been long since executed, or deserved Mercy by a full Discovery of the secret Authors of these malicious Designs

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against the King and People. For though the Declaration says a Trial was directed, yet we are sure nothing was done in order to it, till above a Month after the Dissolution. And it hath since raised such Questions, as we may venture to say, were never talked of before in *Westminster Hall*, Questions which touch the Judicature of the Lords, and the Privileges of the Commons in such a degree, that they will never be determined by the Decision of any inferior Court, but will assuredly at one time or other have a farther Examination.

‘ We have seen now that the Commons did it not without some ground, when they voted the Refusal of the Lords to proceed upon an Impeachment, to be a Denial of Justice, and a Violation of the Constitution of Parliaments; and the second Vote was but an Application of this Opinion to the present Case. The third Vote made upon that Occasion, was no more than what the King himself had allowed, and all the Judges of *England* had agreed to be Law, in the case of the five impeached Lords, who were only generally impeached, and the Parliament dissolved, before any Articles were sent up against them. Yet they had been first indicted in an inferior Court, and Preparations made for their Trial, but the Judges thought at that time, that a Prosecution of all the Commons was enough to stop all Prosecutions of an inferior nature. The Commons had not impeached *Fitzbarris*, but that they judged his Case required so public an Examination, and for any other Court to go about to try and condemn him, though it should be granted to be of another Crime, is as far as in them lies, to stifle that Examination.

‘ By this time every Man will begin to question, whether the Lords did themselves, or the Commons right, in the refusing to countenance such a Proceeding. But one of the Penmen of this Declaration has done himself and the Nation right, and has discovered himself by using his ordinary Phrase upon this Occasion. The Person is well known without naming him, who always tells Men they have done themselves no right, when he is resolved to do them none. As for the Commons, nothing was carried on to Extremity by them, nothing done but what was parliamentary. They could not desire a Conference, till they had first stated their own Case, and asserted by Votes the Matter which they were to maintain at a Conference. And so far were those Votes from putting the two Houses beyond a Possibility of Reconciliation, that they were made in order to it, and there was no other way to attain it. And so far was the House of Commons from thinking themselves to be out of a Capacity of transacting with the Lords any farther, that they were preparing to send a Message for a Conference to accommodate this Difference,

ference, at the very Instant that the Black-Rod called them to their Dissolution. If every Difference in Opinion or Vote, should be said to put the two Houses out of a Capacity of transacting Business together, every Parliament almost must be dissolved as soon as called. However, our Ministers might know well enough that there was no Possibility of reconciling the two Houses, because they had before resolved, to put them out of a Capacity of transacting together by a sudden Dissolution. But that very thing justifies the Commons to the World, who cannot but perceive that there was solemn and good Ground for them to desire an Enquiry into *Fitzbarris's* Treason, since they who influence our Affairs were so startled at it, that in order to prevent it, they first promoted this Difference between the two Houses, and then broke the Parliament lest it should be composed.

There is another thing which must not be past over without Observation, that the Ministers in this Paper take upon them to decide this great Dispute between the two Houses, and to give Judgment on the Side of the Lords. We may well demand, what Person is by our Law constituted a Judge of their Privileges, or hath Authority to censure the Votes of one House, made with Reference to Matters wherein they were contending with the other House, as the greatest Violation of the Constitution of Parliaments? They ought certainly to have excepted the Power which is here assumed of giving such a Judgment, and publishing such a Charge, as being not only the highest Violation of the Constitution, but directly tending to the Destruction of it.

This was the Case; and a few Days Continuance being like to produce a good Understanding between the two Houses, to the advancing of those great and public Ends, for which the Nation hoped they were called, the Ministers found it necessary to put an end to that Parliament likewise.

We have followed the Writers of the Declaration thro' the several Parts of it, wherein the House of Commons are reproached with many particular Miscarriages; and now they come to speak more at large, and to give Caution against two sorts of ill Men. One sort they say, *are Men fond of their old, beloved, Common wealth Principles, and others are angry at being disappointed in Designs they had for accomplishing their own Ambition and Greatness.* Surely, if they know any such Persons, the only way to have prevented the Mischiefs which they pretend to fear from them, had been to have discovered them, and suffered the Parliament to sit to provide against the Evils they would bring upon the Nation, by prosecuting of them. But if they mean by these

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Lovers of Common-wealth Principles, Men passionately devoted to the public Good, and to the common Service of their Country, who believe that Kings were instituted for the Good of the People, and Government ordained for the sake of those that are to be governed, and therefore complain or grieve when it is used to contrary Ends, every wise and honest Man will be proud to be ranked in that Number. And if Common-wealth signifies the common Good, in which Sense it hath in all Ages been used by all good Authors, and which *Bodin* puts upon it when he speaks of the Government of *France*, which he calls a Republic, no good Man will be ashamed of it. Our own Authors, *the Mirror of Justice*, *Bracon*, *Fleta*, *Fortescue*, and others in former Times; and of latter Years, *Sir Thomas Smith*, Secretary of State in the Reign of Queen *Elizabeth*, in his Discourses of the Common-wealth, and King *Charles I.* both before and in the Time of the War, never expresseth himself otherwise. To be fond therefore of such common Principles, becomes every *Englishman*; and the whole Kingdom did hope, and were afterwards glad to find; they had sent such Men to Parliament. If the Declaration would intimate, that there had been any Design of setting up a democratical Government, in opposition to our legal Monarchy, it is a Calumny just of a piece with the other Things which the Penners of this Declaration have vented, in order to the laying upon others the Blame of a Design to overthrow the Government, which only belongs unto themselves.


‘ It is strange how this Word should so change its Signification, with us in the Space of twenty Years. All Monarchies in the World, that are not purely barbarous and tyrannical, have ever been called Common-wealths. *Rome* itself altered not that Name, when it fell under the Sword of the *Cæsars*. The proudest and cruellest of Emperors disdained it not. And in our Days, it doth not only belong to *Venice*, *Genoa*, *Switzerland*, and the *United Provinces* of the *Netherlands*, but to *Germany*, *Spain*, *France*, *Sweden*, *Poland*, and all the Kingdoms of *Europe*. May it not therefore be apprehended that our present Ministers, who have so much decried this Word so well known to our Laws, so often used by our best Writers, and by all our Kings until this Day, are Enemies to the Thing? And that they who make it a Brand of Infamy to be of Common wealth Principles, that is, devoted to the Good of the Bill, do intend no other than the Hurt and Mischief of that People? Can they in plainer Terms declare their Fondness of their beloved arbitrary Power, and their Design to set it up, by subverting our antient legal Monarchy, instituted for the Benefit of the Common-wealth, than

than by thus casting Reproach upon those who endeavour to uphold it.

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Let the Nation then to whom the Appeal is made, judge who are the Men that endeavour to poison the People, and who they are who are guilty of designing Innovations. *Braſſon* tells us, that *Potestas Regis* is *Potestas Legis*: It is from the Law that he hath his Power, it is by the Law that he is King, and for the Good of the People by whose Consent it is made. The Liberty and Welfare of a great Nation, was of too much Importance to be suffered to depend upon the Will of one Man. The Best and Wisest might be transported by an Excess of Power trusted with them, and the Experience of all Times sheweth, that Princes as Men are subject to Errors, and might be misled. Therefore (as far as Man's Wit could foresee) our Constitution hath provided by annual Parliaments, 36 *Edw.* III. *cap.* 10. that the Common-wealth might receive no Hurt; and it is the Parliament, that must from time to time correct the Mischiefs which daily creep in upon us. Let us then no longer wonder, that we see such frequent Prorogations and Dissolutions of Parliaments; nor stand amazed at this last unparalleled Efforts of the Ministers, by this Declaration to render two Parliaments odious unto the People. They well know, that Parliaments were ordained to prevent such Mischiefs as they designed, and if they were suffered to pursue the ends of their Institution, would endeavour to preserve all things in their due Order. To unite the King unto his People, and the Hearts of his People unto the King: To keep the regal Authority within the Bounds of Law, and persuade his Majesty to direct it to the public Good which the Law intends. But as this is repugnant to the Introduction of arbitrary Power and Popery, they who delight in both, cannot but hate it, and chuse rather to bring Matters into such a State as may suit with their private Interests, than suffer it to continue in its right Channel. They love to fish in troubled Waters, and they find all Disorders profitable unto themselves. They can flatter the Humour of a misguided Prince, and increase their Fortunes by the Excesses of a wasteful Prodigal. The Phrensy of an imperious Woman is easily rendered propitious unto them, and they can turn the Zeal of a violent Bigot to their Advantage. The Treacheries of false Allies agree with their own Corruptions, and as they fear nothing so much as that the King should return unto his People, and keep all things quiet, they almost ever render themselves subservient to such as would disturb them. And if these two last Parliaments, according to their Duty, and the Trust reposed in them, have, more steadily than any other before them, persisted in the pious

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pious and just Endeavours of easing the Nation of any of its Grievances, the Authors of the Declaration found it was their best Course, by false Colours put upon things, and subtle Misrepresentations of their actions, to delude the People into an abhorrence of their own Representatives, but with what Candour and Ingenuity they have attempted it, is already sufficiently made known. And if we look about us, we shall find those who design a Change, on either hand fomenting a Misunderstanding between the King, his Parliament and People, whilst Persons who love the legal Monarchy, both out of Choice and Conscience, are they who desire the frequent and successful Meetings of the great Council of the Nation.

‘As for the other sort of peevish Men, of whom the Declaration gives us Warning, who are angry at the Disappointment of their ambitious Designs; if these Words are intended to reflect on those Men of Honour and Conscience, who being qualified for the highest Employments of State, have either left, or refused, or been removed from them, because they would not accept or retain them at the Price of selling their Country, and enslaving Posterity: And who are content to sacrifice their Safety as well as their Interest for the Public, and expose themselves to the Malice of some Men in Power, and to the daily Plots, Perjuries and Subordinations of the Papists: I say, if these be the ambitious Men spoken of, the People will have Consideration for what they say, and therefore it will be Wisdom to give such Men as these no Occasion to say, that they intend to lay aside the Use of Parliaments.

‘In good earnest, the Behaviour of the Ministers of late, gives but too just Occasion to say, that the Use of Parliaments is already laid aside. For tho’ his Majesty has owned in so many of his Speeches and Declarations, the great Danger of the Kingdom, and the Necessity of the Aid and Council of Parliaments, he hath nevertheless been prevailed upon to dissolve four, in the Space of twenty six Months, without making Provision by their Advice suitable to our Dangers or Wants. Nor can we hope the Court will ever love any Parliament better than the first of those four, wherein they had so dearly purchased such a Number of fast Friends; Men, who having first sold themselves, would not stick to sell any thing after. And we may well suspect they mean very ill at Court, when their Designs shock’d such a Parliament. For that very favourite Parliament no sooner began in good earnest to examine what had been done, and what was doing, but they were sent away in haste and in a Fright, though the Ministers know they lost thereby a constant Revenue of extraordinary Supplies. And are the Ministers at
present

present more innocent than at that time? The same Interest Anno 32 Car.
hath the Ascendant at Court still, and they have heighten'd II. 1681.
the Resentments of the Nation, by repeating Affronts; and can we believe them, that they dare suffer a Parliament now to sit?

‘ But we have gained at least this one Point by the Declaration, that it is owned to us, that Parliaments are the best Method for healing the Distempers of the Kingdom, and the only Means to preserve the Monarchy in Credit both at home and abroad. Owned by these very Men, who have so maliciously render'd many former Parliaments ineffectual, and by this Declaration have done their utmost to make those which are to come as fruitless, and thereby have confess'd that they have no Concern for healing the Distempers of the Kingdom, and preserving the Credit of the Monarchy; which is in effect to acknowledge themselves to be what the Commons called them, Enemies to the King and Kingdom. Nothing can be more true, than that the Kingdom can never recover its Strength and Reputation abroad, or its ancient Peace and Settlement at Home, his Majesty can never be relieved from his Fears and his domestic Wants, nor secure from the Affronts which he daily suffers from abroad, till he resolves not only to call Parliaments, but to hearken to them when they are called. For without that, it is not a Declaration, it is not repeated Promises, nay, it is not the frequent calling of Parliaments which will convince the World, that the Use of them is not intended to be laid aside.

‘ However, we rejoice, that his Majesty seems resolved to have frequent Parliaments, and hope he will be just to himself and us, by continuing constant to this Resolution. Yet we cannot but doubt, in some degree, when we remember the Speech made the 26th of *January 1679*, to both Houses, wherein he told them, that he was unalterably of an Opinion, that long Intervals of Parliaments were absolutely necessary, for composing and quieting the Minds of the People. Therefore, which ought we rather to believe, the Speech or the Declaration, or which is likely to last longest? A Resolution of an unalterable Opinion, is a Matter too nice for any but Court Critics to decide. The effectual Performance of the last Part of the Promise will give us Assurance of the first. When we see the real Fruits of these utmost Endeavours to extirpate Popery out of Parliament; when we see the Duke of *York* no longer first Minister, or rather Protector of these Kingdoms, and his Creatures no longer to have the whole Direction of Affairs; when we see that Love to our Religion and Laws is no longer a Crime at
1681.

Anno 32. Car.
II. 1681.

Court, no longer a certain Forerunner of being disgraced and removed from all Offices and Employments in their Power; when the Word *loyal* (which is faithful to the Law) shall be restored to its old Meaning, and no longer signify one who is for subverting the Laws; when we see the Commissions filled with hearty Protestants, and the Laws executed in good earnest against the Papists, the Discoverers of the Plot countenanced, or at least heard, and suffered to give their Evidence, the Courts of Justice steady, and not avowing a Jurisdiction one Day, which they disown the next; no more Grand Juries discharged, lest they should hear Witnesses; nor Witnesses hurried away, lest they should inform Grand Juries; when we see no more Instruments from Court labouring to raise Jealousies of Protestants at Home, and some Regard had to Protestants Abroad; when we observe somewhat else to be meant by governing according to Law, than barely to put in Execution against Dissenters the Laws made against Papists; then we shall promise ourselves not only frequent Parliaments, but all the blessed Effects of pursuing parliamentary Councils, the Extirpation of Popery, the Redress of Grievances, the flourishing of Laws, and the perfect restoring the Monarchy to the Credit which it ought to have, (but which the Authors of the Declaration confess it wants) both at Home and Abroad. There needs no time to open the Eyes of his Majesty's good Subjects, and their Hearts are ready prepared to meet him in Parliament, in order to perfect all the good Settlement and Peace, wanting in Church and State.

‘ But whilst there are so many little Emissaries employed, to sow and increase Divisions in the Nation, as if the Ministers had a Mind to make his Majesty the Head of a Faction, and join himself to one Party in the Kingdom, who has a just Right of governing all, (which *Thuanus*, lib. 28. says, was the notorious Folly, and occasioned the Destruction of his great Grandmother *Mary Queen of Scots*;) whilst we see the same Differences promoted industriously by the Court, which gave the Rise and Progress to the late Troubles, and which were once thought fit to be buried in an Act of Oblivion. Whilst we see the popish Interest so plainly countenanced, which was then done with Caution; when every Pretence of Prerogative is strained to the utmost Height; when Parliaments are used with Contempt and Indignity, and their Judicature, and all their highest Privileges brought in question in inferior Courts, we have but too good Cause to believe, that tho' every loyal and good Man does, yet the Ministers and Favourites do but little consider the Rise and Progress of the late Troubles, and have little Desire

or

or Care to preserve their Country from a Relapse. And Anno 32 Car.
 who, as they never yet shewed Regard to Religion, Liberty, II. 1681.
 or Property, so they would be little concerned to see the
 Monarchy shaken off, if they might escape the Vengeance
 of public Justice, due to them for so long a Course of per-
 nicious Counsels, and for crowning all the rest of their Faults
 by thus reflecting upon that high Court, before which we do
 not doubt but we shall see them one Day brought to Judg-
 ment.

' Thus have we, with an *English* Plainness, expressed our
 Thoughts of the late Parliament and their Proceedings, as
 well as of the Court in relation to them, and hope this
 Freedom will offend no Man. The Ministers, who may be
 concerned thro' their appealing unto the People, cannot in
 justice deny unto any one of them the Liberty of weighing
 the Reasons which they have thought fit to publish in Vin-
 dication of their Actions. But if it should prove otherwise,
 and these few Sheets be thought as weak and full of Errors,
 as those we endeavour to confute, or be held injurious unto
 them, we desire only to know in what we transgress, and that
 the Press may be open for our Justification; let the People,
 to whom the Appeal is made, judge then between them and
 us; and let Reason and the Law be the Rules, according
 unto which the Controversy may be decided. But if by
 denying this, they shall like Beasts recur to Force, they will
 thereby acknowledge that they want the Arms which belong
 to rational Creatures. Whereas, if the Liberty of answering
 be left us, we will give up the Cause, and confess, that both
 Reason and Law are wanting unto us, if we do not, in our
 Reply, satisfy all reasonable and impartial Men, that nothing
 is said by us, but what is just, and necessary to preserve the
 Interests of the King and his People. Nor can there be any
 thing more to the Honour of his Majesty, than to give the
 Nations round about us to understand, that the King of *Eng-
 land* doth neither reign over a base, servile People, who
 hearing themselves arraigned, and condemned, dare not
 speak in their own Defence and Vindication; nor over so
 silly, foolish, and weak a People, as that ill designed, and
 worse supported Paper might occasion the World to think;
 but that there are some Persons in his Dominions, not only
 of true *English* Courage, but of greater Intellestuals as well
 as better Morals, than Advisers unto, and Penners of the
 Declaration have manifested themselves to be.'

What was most remarkable in the Residue of this Reign,
 which took up almost four Years, consisted chiefly in the de-
 sperate Struggles of two exasperated Factions to destroy each
 other by Forms of Law: In the Progress of which some of

Anno 1 Jac.
II. 1684.



the noblest Blood this Island had to boast, was shed by the Hand of the common Executioner; and which, 'tis natural to suppose, made the way so easy for the great Revolution that follow'd in the next.

Death of King
Charles II.

Immediately after the Death of King *Charles* the Second, which happened *February* 6th. 1684-5, such of the Lords of the Privy-Council, together with such other of the Lords Spiritual and Temporal as were in Town, assembled together, to the Number of above Forty; and without Hesitation sign'd an Instrument for Proclaiming the Duke of *York* and

King James II.
proclaim'd.

Albany King, by the Name of *James* the Second. In which they had these Words; ' We, the Lords Spiritual and Temporal, assisted with those of his late Majesty's Privy-Council, with Numbers of other principal Gentlemen of Quality, with the Lord-Mayor, Aldermen and Citizens of *London*, do now, hereby, with one full Voice and Consent of Tongue and Heart, Publish and Proclaim, That the high and mighty Prince *James* the Second is now, by the Death of our late Sovereign of happy Memory, become our lawful, lineal, and rightful Liege Lord, &c. To whom we do acknowledge all Faith and constant Obedience, with all hearty and humble Affection; beseeching God, by *whom Kings do reign*, to bless the Royal King *James* the Second with long and happy Reign over us.' The same Day the new King made the following Speech to his Privy-Council, at whose Request it was made public.

My Lords.

King's first
Speech in Coun-
cil.

" **B**EFORE I enter upon any other Business, I think fit to say something to you. Since it hath pleased Almighty God to place Me in this Station, and I am now to succeed so good and gracious a King, as well as so kind a Brother, I think it fit to declare to you, that I will endeavour to follow his Example, and most especially in that of his great Clemency and Tenderness to his People. I have been reported to be a Man for Arbitrary Power, but that is not the only Story that has been made of Me; and I shall make it my Endeavour to preserve this Government both in Church and State, as it is now by Law Establish'd. I know the Principles of the Church of *England* are for Monarchy, and the Members of it have shewed themselves good and loyal Subjects; therefore I shall always take care to defend and support It. I know too, that the Laws of *England* are sufficient to make the King as great a Monarch as I can wish; and as I shall never depart from the just Right and Prerogative of the Crown, so I shall never invade any Man's Property. I have often heretofore ven-

" tired

"tured my Life in Defence of the Nation, and I shall still
"go as far as any Man in preserving it in all its just Rights
"and Liberties."

Anno 1 Jac.
II. 1685.

He likewise set forth a Proclamation signifying, ' That all
Persons, who at the Decease of the late King, were lawfully
possess'd of any Office, whether Civil or Military, within the
Realms of *England* and *Ireland*, or any other of his Domi-
nions thereunto belonging, particularly all Presidents, Lieu-
tenants, Vice-Presidents, Justices of the Peace, Sheriffs, &c.
should be continu'd in the said Places and Offices, as formerly
they held and enjoy'd the same, until the King's Pleasure
shall be farther known. That all Persons then in Offices, of
whatsoever Degree or Condition, shall not fail, every one ac-
cording to his Place, Office, or Charge, to proceed in the Per-
formance and Execution of all Duties thereunto belonging,
as formerly appertained to them while the late King was
living; and that all the King's Subjects should be aiding
and assisting to the Command of the said Officers and Mini-
sters in the Performance of their respective Offices and Pla-
ces, upon pain of the King's Displeasure. Lastly, That all
Orders and Directions made or given by the Lords of the
Privy-Council of the late King in his Life-time, should be
obey'd and perform'd by all and every Person, as it should or
had been obey'd in the Life of the late King.'

Proclamation
for continuing
all Officers in
their respective
Places.

After which, the late King was no sooner bury'd, but his
Royal Brother acquainted the World, that he died a Roman-
Catholic, and publicly appear'd at Mass himself: He, like-
wise, by another Proclamation, declared, ' That his Maje-
sty had thought fit to call a Parliament speedily to be assem-
bled, in which he made no doubt but Care would be taken
for settling a sufficient Revenue upon the Crown, for the
Support of the Government; the Necessities of which, in
the mean time, required that the Customs and Subsidies, and
other Duties upon Merchandizes, should be continued to be col-
lected, as in the time of his dearest Brother lately deceased.

King goes pub-
licly to Mass.

Requires the
Revenues which
expired with his
Brother to be
continued by
Proclamation.



The only Parliament held in the Reign of King **JAMES the Second**

MET at *Westminster*, May the 19th, 1685, and on the
22d his Majesty made his most gracious Speech
from the Throne, which is to be found in CHAND-
LER's *Hist. Anno 1 Jac. II. 1685, Page 165*, as likewise
the joint Vote of Thanks from both Houses, *Page 167*.

The

Anno 1 Jac.
II. 1685.

Twenty Lords
introduced in
one Day.

The same Day the following Lords were introduced, and took their Seats in the House, *viz.* Francis Lord North, Lord-Keeper of the Great-Seal, Laurence Earl of Rochester, George Marquis of Hallifax, James Duke of Ormond, Henry Duke of Beaufort, Edward Earl of Litchfield, Daniel Earl of Nottingham, James Earl of Abingdon, Edward Earl of Gainsborough, Thomas Earl of Plymouth, Horatio Viscount Townshend, Thomas Viscount Weymouth, Christopher Viscount Hatton, Richard Lord Lumley, John Lord Ossulston, George Lord Dartmouth, Ralph Lord Stawell, Sidney Lord Godolphin, George Lord Jeffreys, and John Lord Churchill; which two last were made Barons of England by his present Majesty.

Proceedings on
the Case of the
Popish Lords.

The same Day, likewise, the House received the Petitions of the Lords who had lain under an Impeachment several Years in the Tower, and been admitted to Bail about a Year ago, *viz.* The Earl of Powis, the Lord Arundel of Wardour, the Lord Bellasis, and the Earl of Danby: The last having made their personal Appearances, in pursuance to their Bail, and delivered their Petitions, the House enter'd into Consideration of the Hardship of their Cases, and came to this Question, 'Whether the Order of the 19th of March, 1678-9, be reversed and annulled as to their several Impeachments;' which passed in the Affirmative. Four Lords only entered

Protest thereon.

their Dissent, namely * Radnor, Anglesea, Clare, and Stamford, with these following Reasons: 1. 'Because it doth, as we conceive, extrajudicially, and without a particular Cause before us, endeavour an Alteration in a judicial Rule and Order of the House, in the highest Part of their Power and Judicature. 2. Because it shakes and lays aside an Order made and renewed upon long Consideration and Debate, Report of Committees of Precedents and former Resolutions, without permitting the same to be read, tho' called for by many of the Peers, and against weighty Reasons, as we conceive, appearing for the same, and contrary to the Practice of former Times. 3. Because it is inherent in every Court of Judicature to assert and preserve the former Rules of Proceedings before them, which therefore must be steady and certain, especially in this High Court, that the Subject, and all Persons concern'd may know how to apply themselves for Justice; the very Chancery, King's-Bench, &c. having their settled Rules, from which there is no Variation.' However, two Days after, the Matter was brought to a Conclusion by this following Order; 'Whereas several Indictments were found at the Sessions held at Westminster against William Earl of Powis, &c. which are since brought into this House by Certiorari, pursuant to an Order of the 9th of April 1678; the

* This Lord's Name is not to the Protest.

the House being this Day informed by Mr. Attorney-General, that his Majesty hath sent a Warrant to him directing him to enter a *Noli prosequi* upon the said Indictments: It is ordered that his Majesty's Attorney-General may have Recourse to the said Indictments in order to enter a *Noli prosequi* thereupon, pursuant to his Majesty's Warrant. And it is further ordered, That the Bail given in the Court of *King's-Bench*, for the Appearance of the said *William Earl of Powis*, &c. be, and is hereby discharged.

Anno 1 Jac.
II. 1685.

The 25th, *Elizabeth Harvey* having brought a Petition Case of Mrs. on *Saturday* last against a Decree in *Chancery* in favour of *Harvey*. Sir *Thomas Harvey*, and Consideration had concerning the same,

The Question was put, That this House will not proceed upon the Petition of Mrs. *Harvey* until she doth personally appear, having the Protection of this House, or give sufficient Security to perform such Order as this House shall make?

It was resolved in the Affirmative.

Dissentient

I do dissent to this Vote, being a heavy and unprecedented Protest thereon. Obstruction to Judicature and Appeals.

Anglesea.

July the 3d. The Lords in a grand Committee made some Alterations in the Title, to a Bill for the reversing the Attainder of the Lord Viscount *Stafford*, a considerable Amendment in the Preamble, and a small Amendment in the enacting Clause, and then the Bill was engrossed: And the Reason of the Reversal was in these Words; *Whereas it is now manifest, that the said William, late Viscount Stafford, was innocent of the Treason laid to his Charge, and the Testimony whereby he was found guilty, was false: Be it enacted, &c.* But before the Question was put for engrossing the Bill, the Earls of *Anglesea* and * *Radnor*, and two or three other Lords, desired Leave to enter their Dissents, for these Reasons; 1st, Because the Assertion in the Bill, of its being now manifest that the late Viscount *Stafford* died innocent, and that the Testimony on which he was convicted was false, which are the sole Grounds and Reasons given to support the Bill, were destitute of all Proof, Warrant, or Testimony, or Matter of Record before us. 2dly, That the Record of the *King's-Bench*, read at the Committee, concerning the Conviction, last Term, of one of the Witnesses for Perjury, in collateral Points of Proof, of no Affinity to the Lord *Stafford's* Trial, and given several Years before, it is conceived can be no Ground to invalidate the Testimony upon which the said Viscount

Bill to reverse
the Lord Vis-
count *Stafford's*
Attainder.

Protest thereon.

* Only the Earl of *Anglesea's* Name is to this Protest.

Anno 1 Jac.
II. 1685.

Viscount was convicted, which could never legally be by one Witness, and was in Fact by the Judgment of his Peers, on the Evidence of at least three. 3dly, It is conceived the said Judgment in the *King's-Bench* was unprecedented, illegal and unwarranted, and highly derogatory to the Honour, Judicature and Authority of this Court, who have Power to question and punish Perjuries of Witnesses before them, and ought not to be imposed upon by the Judgments of inferior Courts, or their Attainder of a Peer invalidated by Implication; and the poplisch Plot so condemned, pursued and punished by his late Majesty and four Parliaments, after public solemn Devotion thro' the whole Kingdom, by Authority of Church and State, to be eluded, to the Arraignment and Scandal of the Government; and only for the restoring of the Family of one poplisch Lord. And all this, being without any Matter judicially appearing before us to induce the same; and the Records of the Trial not suffered to be read, for the Information of the Truth, before the passing of the Bill. 4thly, For many other weighty Reasons offered and given by divers Peers in the two Day's Debate of this Bill, both at the Committee, and in the House.

The said Bill
passed by the
Lords, and
dropped by the
Commons.

The next Day the Bill was read a third time, and passed in the House of Peers; but the forementioned Lords repeated their Protections against it, and were seconded by the Earls of *Stamford* and *Clare*, and the Lord *Eure*, because the Preamble of it was not amended, and no Defect in Point of Law alledged as a Reason for the Reversal of the Attainder. But tho' the said Bill passed the Lords, it was dropped by the Commons.

Lords Vote to
stand by the
King with their
Lives and For-
tunes.

Towards the latter End of *May* the King had communicated the Earl of *Argyle's* * Declaration to the House; upon which a Vote was passed, and presented to his Majesty, That they would stand by and assist him with their Lives and Fortunes: To which the King reply'd as follows:

My Lords,

His Majesty's
Answer. —

“ THE Assurances you give me now of standing by
“ me, are not new to me; you did it before I came
“ to the Crown, and withstood the Violence of a Party which
“ design'd the Overturning the *Monarchy*; of all which I am
“ as

* See CHANDLER's Hist. Anno 1 Jac. II. 1685, Page 167. The said Earl had been condemn'd to die by the Peers of Scotland; but was reprieved, and afterwards made his Escape to Holland; where he enter'd into the Schemes of the Duke of Monmouth, and, in order to make a Diversion on that Side, landed at Dunstaffnage in Scotland, May the 20th; but his Forces being soon dispersed, he was himself taken, and, after enduring much ill Usage, executed at Edinburgh: On which Occasion Archdeacon Echard is pleas'd to make very free with God's Judgments, with very little Credit to himself.

" as sensible as you can desire, which, upon all Occasions, I shall let you see : As it is your Interest, as well as Inclination to support the Crown, so it is mine to support you in all your just Rights and Privileges, the better to enable you to do it."

Anno 1 Jac.
11. 1685.

June the 11th, The Duke of *Monmouth* landed at *Lyme* in *Dorsetshire*, where he soon after published a Declaration to the following Effect : ' That Government was originally instituted by God; and this or that Form of it chosen and submitted to by Men, for the Peace, Happiness, and Security of the Governed, and not for the private Interest and personal Greatness of those that rule. That the Government of *England* was, above all others, happy in its primitive Form; whereby the Prerogatives of the Crown, and the Privileges of the Subject, were so far from jostling one another, that the Rights reserv'd to the People, tended to render the King honourable and great; and the Prerogatives settled on the Prince, were in order to the Subjects Protection and Safety. But now they were compell'd to say, *That all the Boundaries of the Government had of late been broken, and nothing left unattempted for turning the Limited Monarchy into an Absolute Tyranny.* Then they proceed to charge upon the Duke of *York*, in his Brother's Reign, his contriving the burning of *London*; his instigating a Confederacy with *France*, and a War with *Holland*; his fomenting the *Papish* Plot, and encouraging the Murder of *Sir Edmundbury Godfrey*; his charging Treason against *Protestants*, and suborning Witnesses to swear the Patriots of our Religion and Liberties out of their Lives; his hiring execrable Villains to assassinate the late Earl of *Essex*, and causing others to be clandestinely cut off, in hopes to conceal it; his advising and procuring the Prorogation and Dissolution of the Parliaments, in order to prevent the looking into his Crimes, and that he might escape the Justice of the Nation, &c.

' They next proceeded to enumerate the Tyrannies which he had exercis'd since he snatch'd the Crown from his Brother's Head : For, in Defence of all Laws and Statutes of the Realm, made for the securing of the *Protestant* Religion, he not only began his Reign with a bare-fac'd avowing himself of the *Romish* Religion, but call'd in Multitudes of Priests and Jesuits, from whom the Law makes it Treason to come into the Kingdom, and hath empower'd them to exercise Idolatries : And, besides his being daily present at the Worship of the Mass, he hath publicly assisted at the greatest Fopperies of their Superstition. Neither hath he been more tender in trampling upon the Laws which concern our Properties; seeing two Proclamations, whereof the one requires the collecting

1685.

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Anno x Jac.
11. 1685.

lecting of the Customs, and the other continuing that part of the Excise, which was to expire at the late King's Death; he hath violently, and against all the Laws of the Land, broken in upon our Estates. Neither is it any Extenuation of his Tyranny, that he is countenanc'd in it by an Extra-Judicial Opinion of seven or eight suborn'd and forsworn Judges, but rather declaring the Greatness and Extent of the Conspiracy against our Rights; and that there is no Means left for our Relief, but by Force of Arms: For, by advancing those to the Bench, that were the Scandal of the Bar, and constituting those very Men to declare the Laws, who were accus'd and branded in Parliament for perverting them, we are precluded all Hopes of Justice in *Westminster-Hall*: And by packing of Juries, false Returns, new illegal Charters, and other corrupt Means, he doth deprive us of all Expectations of Succour, where our Ancestors were wont to find it; and hopes to render that which ought to be the People's Fence against Tyranny, and the Conservator of their Liberties, the Means of subverting all our Laws, and of establishing his Arbitrariness, and confirming our Thralldom.—Notwithstanding all which, they declare to the World, it is not for any personal Injuries, or private Discontents, nor in pursuance of any corrupt Interest, that we take our Swords in our Hands; but for vindicating our Religion and Laws, and rescuing our Country from Ruin and Destruction, and for the preserving Ourselves, Wives and Children, from Bondage and Idolatry. Wherefore, before God, Angels and Men, we stand acquitted from, and do charge upon our Enemies all the Slaughter and Devastations that unavoidably accompany intestine War.

After this they laid down the Ways and Means of redressing all Grievances, and particularly the repealing the Penal Laws against *Protestant Dissenters*, the Corporation and Militia Acts, and promis'd to pursue those Ends in a fair and effectual Manner. And then, that they might as fairly and effectually load the King, they proceeded thus: 'And whereas the said Duke of *York*, in order to the expediting his idolatrous and bloody Designs of the *Papists*, the gratifying his own boundless Ambition after a Crown, and to hinder the Enquiry after the Assassination of the Earl of *Essex*, hath poisoned the late King, and thereby manifested his Ingratitude, as well as Cruelty to the World, in murdering a Brother, who had almost ruined himself, to preserve and protect him from Punishment: We do therefore farther declare, that, for the aforesaid villainous and unnatural Crime, and other of his Crimes before-mentioned, and in pursuance of the Resolution of both Houses of Parliament, who voted to revenge the King's Death in case he came to an untimely End,

End, we will prosecute the said *James Duke of York*, till we have brought him to suffer what the Law adjudg'd to be the Punishment of so execrable a Fact. And in a more particular manner, his Grace the Duke of *Monmouth*, being sensible of the barbarous and horrid Parricide committed upon his Father, doth resolve to pursue the said *James Duke of York* as a mortal and bloody Enemy ; and will endeavour as well with his own Hand, as by the Assistance of his Friends, and the Law, to have Justice executed upon him. And the said *James Duke of Monmouth*, the now Head and Captain-General of the *Protestant* Forces of this Kingdom, assembled for the End aforesaid, from the Generousness of his own Nature, and the Love he bears to these Nations, whose Welfare and Settlement he infinitely prefers to whatsoever concerns himself, doth not at present insist upon his Title, but leaves the Determination thereof to the Wisdom, Justice and Authority of a Parliament legally chosen, and acting with Freedom : And in the mean time doth profess and declare, by all that's sacred, that he will, in Conjunction with the People of *England*, employ all his Abilities, bestow'd upon him by God and Nature, for the Re-establishment and Preservation of the *Protestant* Religion in these Kingdoms, and for restoring of the Subjects of the same to a free Exercise thereof, in Opposition to *Papery*, and the Consequences of it, Tyranny and Slavery. To the obtaining of which End, he doth hereby promise and oblige himself to the People of *England* to promote the passing into Laws all the Methods aforesaid, that it may never more be in the Power of any single Person on the Throne to deprive their Subjects of their Rights, and to subvert the fundamental Laws of the Government design'd for their Preservation.' Then declaring for the Insurrection in *Scotland*, and inviting all Protestant Kings, Princes, States and People to their Assistance, they conclude in these Words ; ' And above all, our Dependance and Trust is upon the Lord of Hosts, in whose Name we go forth, and to whom we commit our Cause, and refer the Decision betwixt us in the Day of Battle. Now let us play the Men for our People, and for the Cities of our God ; and the Lord do that which seemeth good unto him.'

Anno 1 Jac.
H. 1681.

This Piece being communicated by the King to the Lords, and by them to the Commons, by a joint Order of both Houses it was burn'd by the Hands of the common Hangman ; and this high-spirited, tho' rash Attempt of the Duke's served only to facilitate the King's Purposes in Parliament, and hasten'd his own Ruin ; the Batt e of *Sedgemore*, near *Bridgewater*, wherein he was defeated and taken Prisoner, being fought *July* the 6th, and he beheaded the 15th on

Which is burnt
by the common
Hangman.

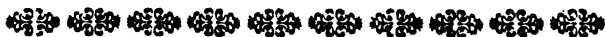
R r 2

Tower-

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II. 1685.

The Duke be-
headed.

Tower-Hill: Both Houses having adjourn'd on the second, at the King's Instance, till the fourth of *August*: When they again adjourned to *November* the 9th.



*The second and last SESSION of the only Par-
liament held in the Reign of King JAMES
the Second.*

Marquis of
Hallifax.

Thanks voted.

ON the said Nov. 9, 1685, both Houses met at *Westminster*, and the King made a most gracious Speech from the Throne, as usual, (which see in *CHANDLER's History, Anno 1 Jac. II. 1685, Page 180*;) and his Majesty being withdrawn, the Lords thought fit to debate, Whether they should give the King Thanks for his Speech or not? Some of that August Assembly were for it, while others as warmly opposed it; but the Marquis of *Hallifax*, a Man of a sharp satyrical Wit, said, by way of Irony, *They had now more Reason than ever to give Thanks to his Majesty, since he had dealt so plainly with them, and discover'd what he would be at.* What he meant for a Jest, was suddenly laid hold on by the Courtiers for Earnest, so the Affirmative carried it, and an Address of Thanks was presented: To which his Majesty returned this Answer:

King's Answer.

“THAT he was very well satisfy'd that their Lordships were well pleased with what he said; and that he would never offer any thing to their House, that he should not be convinced was for the Good and true Interest of the Kingdom.”

Bishop of
London.

Nevertheless, the Bishop of *London (Compton)* courageously mov'd, in the Name of himself and all his Brethren, that the House would particularly debate the King's Speech, and the 23d of this Month was accordingly appointed; which, as it was extraordinary and unusual in the House, so it was not less surprizing to the King and Court, who soon shewed a particular Jealousy at these Proceedings.

Petition of the
Lord Delamere.

On the first Day of the Session likewise, the Lord *Delamere*, in an humble Petition represented to their Lordships, That his Majesty, by his Proclamation, dated the 19th of *July* last, did require the Petitioner to appear before him in Council within ten Days, not for any manner of Treason, but for other less Matters therein contained. That accordingly within seven Days he did render himself to my Lord
Sunder-

Sunderland, (principal Secretary of State :) And that after being brought before his Majesty, then sitting in Council, he was neither confronted by any Person that accused him, nor otherwise charged with any manner of Treason, but only asked some Questions relating to Matters of a lesser Nature : And had he been guilty of them, yet, by Law, he might and ought to have been bailed. Notwithstanding which, the Lord *Sunderland*, by Warrant bearing Date the 26th of *July* last, did commit the Petitioner to the Tower of *London*, for High Treason in levying War against the King, where he had remained ever since, under a very close Restraint. And as he avowed himself to be altogether innocent of any evil Practice against the King or the Government, and had in all Things behaved himself as became a good Subject ; so he humbly prayed their Lordships to take his Case into their serious Consideration, and do therein what should seem meet to their Lordships.' After some Debate, the Question was put, Whether the Lords with white Stuffs should wait on his Majesty, to know the Reason why the Lord *Delamere*, a Member of their House, was absent from his Attendance there. Which Being carried in the Affirmative, the Earl of *Rocheſter*, Lord-Treasurer, reported the next Day, ' That he, with the other Lords, having waited on his Majesty, with their Message, his Majesty was pleased to answer, *That the Lord Delamere stood committed for High Treason, testified upon Oath : and that his Majesty had already given Directions, that he should be proceeded against according to Law.*' The Lords resumed this Debate a few Days after, when the Lord-Chancellor, *Jeffreys*, by his Majesty's Command, gave this Account to their Lordships, of the Proceedings had and intended to be had against the Lord *Delamere*, in these Words ; ' To shew your Lordships that the King has given Orders for a speedy Prosecution of him, the Treason whereof he is accused, was committed in *Cheshire*, and that being a County Palatine, the Prosecution must be there, and not in the Court of *King's-Bench*, as it might be, if the Treason had been committed in any other County : And therefore his Majesty had given Orders for a Commission of *Oyer and Terminer*, in order to the finding an Indictment against him. Which Commission is already passed ; and if the Indictment be not found before the End of the Term, the Lord *Delamere's* Prayer being entered in the *King's-Bench*, he may be bailed.'

November the 11th likewise, the Earl of *Stamford*, put up a Petition to the Lords, importing, ' That in *July* last he was taken in Custody at his House in *Leicestershire*; and being brought to *London*, was, by the Earl of *Sunderland's* Warrant, committed to the Tower for High Treason, in conspiring the

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Address thereon

King's Answer.

Lord-Chancellor
Jeffreys.

Of the Proceedings
against the
said Lord.

Earl of Stam-
ford's Petition.

Autho: s. Jac.
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Death of the late King, where he remained ever since, and was now a close Prisoner, and had not had the Use of Pen, Ink, or Paper, except to sign Petitions, in the Gentleman Porter's or Warder's Presence: That he took Leave to assert, that he was innocent of the Crime laid to his Charge, and had endeavoured to behave himself with all Duty and Loyalty to the King, and his royal Brother of glorious Memory: That nevertheless he heard there was an Indictment of High Treason found against him; but where, when, or how, or upon what Evidence, or what Matter, he knew not. Wherefore, he humbly prayed, that their Lordships, according to the antient Course of Proceedings of this most honourable House, would be pleased to order him to be brought before them in their House of Parliament, there to hear the Matter charged against him: And that thereupon such further Proceedings might be had, as are agreeable to Justice, and the usual Course of parliamentary Proceedings in Cases of the like Nature.'

Order thereon.

Upon reading this Petition, the House of Peers immediately ordered the Lord Mayor, and the rest of the Justices of the City of *London*, forthwith to return in their House, by virtue of his Majesty's Writ of *Certiorari*, the Indictment found against the Earl of *Stamford*.

His Lordship
brought to the
Lords Bar.

On the 17th of *November*, the said Earl, pursuant to their Lordships Order, was brought to the Bar, and the Indictment found against him. And his Petition being read, the Lord-Chancellor asked him, *What he had to say to the House?* His Lordship replied, *That he had been strictly confined by sixteen Weeks Imprisonment, and not allowed the Liberty of Pen, Ink and Paper, or Friends to come to him; and therefore he could say no more till he knew his Charge.*

His Trial or-
dered.

Whereupon the House ordered the Earl of *Stamford's* Trial should be in *Westminster Hall*, on the first Day of *December* next: That in the mean time, he should be allowed the Liberty of Pen, Ink and Paper, and Friends to come to him, in order for his Trial; and that the Lords with white Staffs should attend the King, to desire his Majesty, in behalf of this House, that a Place may be appointed in *Westminster-Hall*, and that his Majesty would give Order for a Commission to appoint a Lord High Steward, in order to the said Trial. On the next Day the Lords were made acquainted, that the King had complied with their Desire.

But in the mean time, the King, finding the Temper of both Houses not exactly agreeable to his own, thought fit to put an End to the Session, tho' with the Loss of 700,000*l.* voted by the Commons: And accordingly on the 20th of *November*, his Majesty ordered a Commission to the House of Peers, who sending for the Commons, the Lord-Chancellor

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Parliament dissolved.

tellor let both Houses know, ' That it was his Majesty's Pleasure, for many weighty Reasons, that this Parliament be prorogued till the 10th of *February* next.' And thus ended the second Meeting of this Parliament, after it had sat but eleven Days; and tho' prorogued from time to time, it never met to do Business after, it being dissolved in less than two Years time, viz. *July* the 2d, 1687, and no other called during this Reign. And here we may wonder, that after such solemn Promises on the King's Side, and such large Compliances on the other, there should be so little Union between them: If either of them had been less, the King's future Actions had then been much more excusable, and less liable to the Censure of an Historian, who especially is to take notice of open Ingratitude, and public Breach of Faith.

After the breaking up of the Parliament, two Lords Trials were expected, namely of the Earl of *Stamford* and the Lord *Delamere*. The first never came on, but the latter did, in a little above a Month's time, with the usual Solemnity of a Lord High-Steward, and a select Number of about thirty Lords. After some Formalities, and special Pleas offered by the Lord *Delamere*, the first Witness produced against him was the Lord *Howard*, who had not yet done with the Drudgery of Swearing, as it was called, but was forced again to do Penance for his former Crimes, which he introduced in these Words; *I am called, not to be an Evidence against my Lord Delamere, but against myself; that is, to repeat what I have often delivered at several Trials in the Courts of Justice, and which I must always repeat with Shame and Confusion for my Guilt, as I cannot but always reflect upon it with Sorrow and Horror.* After a very long Story that had no relation to the present Cause, it presently appeared to the World that the Lord *Grey* was in Favour, or at least pardoned, by being brought in as a second Witness, more to prove the Truth and Design of *Monmouth's* Rebellion, than the real Guilt of the Person accused. Others also appeared, as *Wade*, *Jones*, and *Goodenough*; but none came fully to the Point, which was the Lord's Correspondence with the Duke of *Monmouth*, but one *Saxon*: But he being proved to be a Person of very little or bad Reputation, (appearing perjured says *Salmon*) the whole Body of the Peers acquitted his Lordship, and so he came off with Triumph; but, perhaps, with such just Resentment, that he afterwards proved a prime Instrument in removing those that had so much endangered him.

Lord Delamere's Trial.

Lord Howard's Evidence.

And Lord's Grey.

The Prisoners acquitted.

The other Lord, the Earl of *Stamford*, made his Escape with less Difficulty; for soon after, upon bringing his *Habeas Corpus*, he was admitted to Bail; and in the Beginning of the

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Earl of Stamford
pleads the
general Pardon.

the next Year, tho' innocent as to any Proof, thought fit to lay hold on the Proclamation of Pardon, which was issued out after all the Trials were over. This was called by the Name of General, but clogg'd with such Number of Exceptions as to Persons, and some of those Persons so inconsiderable, that it was thought of very little Use, or at least made with no considerable Thanks.

Proclamation
relating to an
universal Liberty
of Conscience,
&c.

The rest of the Proceedings of this Reign being recapitulated in the Prince of *Orange's* Declaration under the Head of Grievances, we need only mention here, that in 1688 his Majesty, thinking it necessary to call a new Parliament, took all imaginable Methods to model the Elections to his Wishes: But his violent Actions having created very just Suspicions among the People, in order to dissipate them, *September* the 21st, he issued out a Proclamation, importing, ' That having already signify'd his Pleasure to call a Parliament, lest those whose Right it was to chuse Members should lie under any Prejudice and Mistakes, through the Artifices of disaffected Persons, he thought fit to declare, That it was his Royal Purpose to endeavour a Legal Establishment of an universal Liberty of Conscience for all his Subjects; that it was also his Resolution inviolably to preserve the Church of *England*, by such a Confirmation of the several Acts of Uniformity, that they shou'd never be alter'd any other ways than by repealing the several Clauses, which inflict Penalties upon Persons not promoted, or to be promoted to any Ecclesiastical Benefices within the meaning of the said Act, for exercising their Religion contrary to the Purport of the said Acts of Uniformity. And that for the farther securing, not only the Church of *England*, but the *Protestant* Religion in general, he was willing the *Roman Catholics* shou'd remain incapable to be Members of the House of Commons; whereby those Fears and Apprehensions would be removed, which many Persons had had, that the Legislative Authority would be engross'd by them, and turned against *Protestants*. After which he exhorted them to lay aside all Animosities, and so to dispose themselves, as to think of such Persons to represent them in Parliament, whose Abilities and Tempers rendered them fit for so great and good a Work.

Prince of Orange's first Declaration.

On the other hand the Prince of *Orange*, now on the Point of Embarking his Troops, *October* 10, *N. S.* set forth a Declaration divided into twenty fix Articles, but reducible to these three principal Heads: ' The first contain'd a particular Enumeration of the Grievances of the *English* Nation, especially the King's arrogating to himself a Dispensing Power: His advancing *Papists* to Civil, Ecclesiastical, and Military Employments, and allowing them to sit in the Privy-Council:



Council: His setting up an illegal Commission for Ecclesiastical Affairs, in which there was one of his Ministers of State, who made public Profession of the *Popish* Religion, and who, at the time of his first professing it, declared, that, for a great while before, he had believed that to be the only true Religion; and by which not only the Bishop of London was suspended, but the President and Fellows of *Magdalen-College* were arbitrarily turned out of their Free-holds contrary to that express Provision in *Magna Charta*, That no Man shall lose Life or Goods but by the Law of the Land: His allowing *Popish* Monasteries and Colleges of *Jesuits* to be created: His turning out of Public Employments all such as would not concur with him in the Repeal of the Test and Penal Laws: His invading the Privileges, and seizing on the Charters of most Corporations, and placing *Popish* Magistrates in some of them: His subjecting the Courts of Judicatory to his arbitrary and despotic Power, and putting the Administration of Justice into the Hands of *Papists*: His not only arming the *Papists*, in contempt of the Laws, but likewise raising them up to the greatest Military Trusts, both by Sea and Land, Strangers as well as Natives, and *Irish* as well as *English*, that he might be in a Capacity to enslave the Nation: His putting the whole Government of *Ireland* into the Hands of *Papists*: His assuming an absolute and arbitrary Power in the Kingdom of *Scotland*; from which it was apparent what was to be look'd for in *England*.

Secondly, his Highness alledg'd, ' That those great and insufferable Oppressions, and the open Contempt of all Law, together with the Apprehensions of the said Consequences that must certainly follow upon it, had made the Subjects to look after such Remedies as are allow'd of in all Nations, and in the most *absolute* Monarchies, all which had been without Effect; his Majesty's evil Counsellors having endeavoured to make all Men apprehend the Loss of their Lives, Liberties, Honours and Estates, if they should go about to Reserve themselves from this Oppression by Petitions and representations; an Instance of which was the Prosecution of the seven Bishops: That a Peer of the Realm [the Lord *Lovelace*] was treated as a Criminal, only because he said, *That the Subjects were not bound to obey the Orders of a popish Justice of Peace*; tho' it is evident, that they being by Law rendered incapable of all such Trusts, no Regard is due to their Orders; that both he and his Consort the Princess, had endeavoured to signify, with Terms full of Respect to the King, the just and deep Regret which all these Proceedings had given them, and declared what their Thoughts were, touching the repealing of the Test and Penal Laws;

1688.

S f

but


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but that these evil Counsellors had put such ill Constructions on their good Intentions, that they had endeavoured to alienate the King more and more from them. That the last and great Remedy for all these Evils, was the calling of a Parliament, which could not yet be compassed, nor could be easily brought about; for these Men apprehending, that a lawful Parliament would bring them to account for all their open Violations of Law, and for their Conspiracies against the Protestant Religion, and the Lives and Liberties of the Subjects, they had endeavoured, under the specious Pretence of Liberty of Conscience, first to sow Divisions between those of the Church of *England* and Dissenters, with Design to engage Protestants, who are equally concerned to preserve themselves from popish Oppression, into mutual Quarrellings; that so by these, some Advantages might be given to them to bring about their Designs; and that both in the Elections of Members of Parliament, and afterward in the Parliament itself: That they had also made such Regulations as they thought fit and necessary, for securing all the Members that were to be chosen by the Corporations; by which means, they hoped to avoid the Punishment they deserved; tho' it was apparent, that all Acts made by popish Magistrates were null and void of themselves: So that no Parliament could be lawful, for which the Elections and Returns were made by popish Magistrates, Sheriffs and Mayors of Towns; and therefore as long as the Magistracy was in such Hands, it was not possible to have a free Parliament legally called and chosen. That there were great and violent Presumptions, inducing his Highness to believe, that those evil Counsellors, in order to the gaining the more time for the effecting of their ill Designs, hath published, that the Queen had brought forth a Son; tho' there had appeared, both during the Queen's pretended Bigness, and in the manner wherein the Birth was managed, so many just and visible Grounds of Suspicion, that not only he himself, but all the good Subjects of the Kingdom, did vehemently suspect, that the pretended Prince of *Wales* was not born of the Queen: And tho' many both doubted of the Queen's Bigness, and of the Birth of the Child, yet there was not any one thing done to satisfy them, or put an End to their Doubts. That since his Consort the Princess, and likewise he himself, had so great an Interest in this Matter, and such a Right, as all the World knew, to the Succession of the Crown; since all the *English* did in the Year 1672, when *Holland* was invaded with a most unjust War, use their utmost Endeavours to put an End to that War, and that in Opposition to those who were then in the Government; since the *English* Nation had

had ever testified a most particular Affection and Esteem, both to his Highness's dearest Consort and to himself, he could not excuse himself from espousing that Interest, in a Matter of such high Consequence, and from contributing all that in him lay for the maintaining both of the Protestant Religion, and the Laws and Liberties of these Kingdoms; to the doing of which, his Highness was most earnestly solicited by a great many Lords, both spiritual and temporal, and by many Gentlemen and other Subjects of all Ranks.'

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In the last Place his Highness declared, ' That, for the forementioned Reasons, he has thought fit to go over to *England*, and to carry with him a Force sufficient to defend him from the Violence of those evil Counsellors; That his Expedition was intended for no other Design, but to have a free and lawful Parliament assembled as soon as it was possible; and that in order to this, all the late Charters, by which the Election of Burgesses was limited contrary to the ancient Custom, should be considered as null and of no Force. That to this Parliament he would refer the Enquiry into the Birth of the pretended Prince of *Wales*, and of all things relating thereto, and to the Right of Succession: That he would concur in every thing that might procure the Peace and Happiness of the Nation, under a just and legal Government; That he would keep the Forces under his Command, under all the Strictness of martial Discipline, and promised that he would send back all those Foreign Forces as soon as the State of the Nation would admit of it: That therefore he invited and required all Persons whatsoever to come and assist him, in order to the executing his Designs against all such as shall endeavour to oppose him. That he would likewise take Care that a Parliament should be called in *Scotland*, for restoring the ancient Constitution of that Kingdom, and for bringing the Matters of Religion to such a Settlement, that the People might live easy and happy. That he would also study to bring the Kingdom of *Ireland* to such a State, that the Settlement there might be religiously observed, and that the *Protestant* and *British* Interest there might be secured.' He concludes all in these Words, ' And we will endeavour by all possible Means, to procure such an Establishment throughout all the three Kingdoms, that they may all live in a happy Union and Correspondence together; and that the *Protestant* Religion, and the Peace, Honour and Happiness of these Nations may be established upon lasting Foundations.'

He likewise publish'd an additional Declaration, and a third, tho' spurious, was published in his Name, that had a

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II. 1633.

Second Declara-
tion.

marvellous Effect in his Favour, both which are as follow :

‘ After we had prepared and printed this our Declaration, we have understood, that the Subverters of the Religion and Laws of those Kingdoms, hearing of our Preparations to assist the People against them, have begun to retract some of the arbitrary and despotic Powers that they had assumed, and to vacate some of their unjust Judgments and Decrees. The Sense of their Guilt, and the Distrust of their Force, have induced them to offer to the City of *London*, some seeming Relief from their great Oppressions; hoping thereby to quiet the People, and to divert them from demanding a secure Re-establishment of their Religion and Laws under the shelter of our Arms. They do also give out, that we intend to conquer and enslave the Nation : And therefore it is, that we have thought fit to add a few words to our Declaration.

‘ We are confident, that no Persons can have such hard Thoughts of us, as to imagine that we have any other Design in this Undertaking, than to procure a Settlement of the Religion, and of the Liberties and Properties of the Subjects upon so sure a Foundation, that there may be no danger of the Nation’s relapsing into the like Miseries at any time hereafter. And as the Forces that we have brought along with us, are utterly disproportioned to that wicked Design of conquering the Nation, if we were capable of intending it, so the great Numbers of the principal Nobility and Gentry, that are Men of eminent Quality and Estates, and Persons of known Integrity and Zeal, both for the Religion and Government of *England*; many of them being also distinguished by their constant Fidelity to the Crown, who do both accompany us in this Expedition, and have earnestly solicited us to it, will cover us from all such malicious Insinuations. For it is not to be imagined, that either those who have invited us, or those who are already come to assist us, can join in a wicked Attempt of Conquest, to make void their own lawful Titles to their Honours, Estates and Interests. We are also confident, that all Men see how little weight there is to be laid, on all Promises and Engagements that can be now made ; since there has been so little regard had in time past to the most solemn Promises. And as that imperfect Redress that is now offered, is a plain Confession of those Violations of the Government that we have set forth, so the Defectiveness of it is no less apparent; for they lay down nothing which they may not take up at pleasure ; and they reserve entire, and not so much as mentioned, their Claims and Pretences to an arbitrary and despotic Power ; which has been the Root of all their Oppression, and of the total Subversion of the

the Government. And it is plain, that there can be no Redress nor Remedy offered but in Parliament; by a Declaration of the Rights of the Subjects that have been invaded; and not by any pretended Acts of Grace, to which the Extremity of their Affairs has driven them. Therefore it is that we have thought fit to declare, that we will refer all to a free Assembly of the Nation, in a lawful Parliament.
Given under our Hand and Seal, at our Court in the Hague, the 24th Day of October, in the Year 1688. WILLIAM HENRY, Prince of ORANGE. By his Highness's special Command, C. HUYGENS.

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 II. 1688.

The spurious Declaration.

‘ We have in the whole Course of our Life, and more particularly by the apparent Hazards both by Sea and Land, to which we have so lately exposed our Person, given to the World so high and undoubted Proofs of our fervent Zeal to the Protestant Religion, that we are fully confident no true *Englishman* and good Protestant can entertain the least Suspicion of our firm Resolution, rather to spend our dearest Blood, and perish in the Attempt, than not to carry on the blessed and glorious Design, which, by the Favour of Heaven, we have so successfully begun, to rescue *England, Scotland* and *Ireland* from Popery and Slavery, and in a free Parliament to establish the Religion, the Laws and Liberties of these Kingdoms on such a sure and lasting Foundation, that it shall not be in the Power of any Prince for the future to introduce Popery and Tyranny.

A spurious Declaration.

‘ Towards the more easy compassing this great Design, we have not been hitherto deceived in the just Expectation we had of the Concurrence of the Nobility, Gentry and People of *England* with us, for the Security of their Religion, and the Establishment of their Liberties and Properties. Great Numbers of all Ranks and Qualities have joined themselves to us; and others, at great Distances from us, have taken up Arms and declared for us: And, which we cannot but particularly mention, in that Army which was raised to be the Instrument of Slavery and Popery, many, by the special Providence of God, both Officers and common Soldiers, have been touched with such a feeling Sense of Religion and Honour, and of true Affection to their native Country, that they have already deserted the illegal Service they were engaged in, and have come over to us, and have given us full Assurance from the rest of the Army, that they will certainly follow this Example, as soon as we shall approach near enough to receive them without Hazard of being prevented or betrayed,

‘ To

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‘ To which End, and that we may the sooner execute this just and necessary Design we are engaged in for the public Safety and Deliverance of these Nations, we are resolved with all possible Diligence to advance forwards, that a free Parliament may be forthwith called, and such Preliminaries adjusted with the King, and all Things settled upon such a foot, according to Law, as may give us and the whole Nation just Reason to believe, the King is disposed to make such necessary Condescensions on his Part, as will give entire Satisfaction and Security to all, and make both King and People once more happy. And that we may effect all this, in the way most agreeable to our Desires, if it be possible, without the Effusion of Blood, except of those execrable Criminals who have justly forfeited their Lives for betraying the Religion, and subverting the Laws of their native Country, we do think fit to declare, that as we will offer no Violence to any, but in our own necessary Defence, so we will not suffer any Injury to be done to the Person, even of any Papist, provided he be found in such Place, and Condition, and Circumstances as the Law requires. So we are resolved, and do declare, that all Papists who shall be found in open Arms, or with Arms in their Houses, or about their Persons, or in any Office Civil or Military, upon any Pretence whatsoever, contrary to the known Laws of the Land, shall be treated by us and our Forces, not as Soldiers and Gentlemen, but as Robbers, Free-booters and Banditti; they shall be incapable of Quarter, and entirely delivered up to the Discretion of our Soldiers. We do farther declare, that all Persons who shall be found any ways aiding or assisting to them, or shall march under their Command, or shall join with, or submit to them in the Discharge or Execution of their illegal Commissions or Authority, shall be looked upon as Partakers of their Crimes, Enemies to the Laws, and to their Country.

‘ And whereas we are certainly informed, that great Numbers of armed Papists have of late resorted to *London* and *Westminster*, and Parts adjacent, where they remain, as we have Reason to suspect, not so much for their own Security, as out of a wicked and barbarous Design, to make some desperate Attempt upon the said Cities, and their Inhabitants, by Fire, or sudden Massacre, or both; or else to be more ready to join themselves to a Body of *French* Troops designed, if it be possible, to land in *England*, procured of the *French* King, by the Interest and Power of the Jesuits, in pursuance of the Engagements, which, at the Instigation of that pestilent Society, his most Christian Majesty, with one of his neighbouring Princes of the same Communion, has entered into

into for the utter Extirpation of the Protestant Religion out of *Europe*. Tho' we hope we have taken such effectual Care to prevent the one, and secure the other, that, by God's Assistance, we cannot doubt but we shall defeat all their wicked Enterprises and Designs.

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' We cannot however forbear, out of the great and tender Concern we have to preserve the People of *England*, and particularly those great and popular Cities, from the cruel Rage and bloody Revenge of the Papists, to require and expect from all the Lord-Lieutenants, Deputy-Lieutenants, and Justices of the Peace, Lord Mayors, Mayors, Sheriffs, and all other Magistrates and Officers, Civil and Military, of all Counties, Cities and Towns of *England*, especially of the County of *Middlesex*, and Cities of *London* and *Westminster*, and Parts adjacent, that they do immediately disarm and secure, as by Law they may and ought, within their respective Counties, Cities and Jurisdictions, all Papists whatsoever, as Persons at all times, but now especially, most dangerous to the Peace and Safety of the Government, that so, not only all Power of Mischief may be taken from them, but that the Laws, which are the greatest and best Security, may resume their Force, and be strictly executed. And we do hereby likewise declare, that we will protect and defend all those who shall not be afraid to do their Duty in Obedience to these Laws. And that for those Magistrates and others, of what Condition soever they be, who shall refuse to assist us, and, in Obedience to the Laws, to execute rigorously, what we have required of them, and suffer themselves, at this Juncture, to be cajoled and terrified out of their Duty, we will esteem them the most criminal and infamous of all Men; Betrayers of their Religion, the Laws, and their native Country; resolving to expect and require at their Hands the Life of every single Protestant that shall perish, and every House that shall be burnt or destroyed by their Treachery and Cowardice. *Given under our Hand and Seal, at our Head Quarters at Sherborn-Castle, the 28th Day of November, 1688. WILLIAM HENRY, Prince of Orange. By his Highness's special Command, C. HUYGENS.*

Early in *November* the Prince landed in *Torbay*; soon after which the King set forth the following Answer to his Declaration, " That it was but too evident, by a late Declaration published by the Prince of *Orange*, that, notwithstanding the many specious and plausible Pretences it carries, his Designs in the Bottom did tend to nothing less than an absolute usurping of his Majesty's Crown and Royal Authority; as might fully appear by his assuming to himself in the said Declaration the Regal Style, requiring the Peers of the Realm, both spiritual

King's Declaration.

Anno 4 Jac.
II. 1653.

spiritual and temporal, and all other Persons of all Degrees, to obey and assist him in the Execution of his Designs; a Prerogative inseparable from the Imperial Crown of this Realm: Adding, that, for a more undeniable Proof of his immoderate Ambition, and which nothing could satisfy but the immediate Possession of the Crown itself, he called in Question the Legitimacy of the Prince of *Wales*, his Majesty's Son and Heir apparent; tho' by the Providence of God, there were present at his Birth so many Witnesses of unquestionable Credit, as if it seemed the peculiar Care of Heaven, on purpose to disappoint so wicked and unparallel'd an Attempt. That, in order to the effecting his ambitious Designs, he seemed desirous to submit all to a free Parliament, hoping thereby to ingratiate himself with the People; tho' nothing was more evident than that a Parliament could not be free so long as there was an Army of Foreigners in the Heart of his Majesty's Kingdoms, so that in truth he was the sole Obstructor of such a Free Parliament. His Majesty being fully resolved, as he had already declared, so soon as by the Blessing of God his Kingdom should be delivered from this Invasion, to call a Parliament, which could no longer be liable to the least Objection of not being freely chosen, since his Majesty had actually restored all the Boroughs and Corporations to their ancient Rights and Privileges. Upon which Considerations, and the Obligations of their Duty and natural Obedience, his Majesty could no ways doubt, but that all his faithful and loving Subjects would readily and heartily concur and join with him in the entire suppressing and repelling of his Enemies and rebellious Subjects."

Soon after this, most of the Protestant Lords, both spiritual and temporal, who were then in *London*, namely, the Archbishop of *Canterbury*, the Archbishop of *York* Elect, the Bishops of *St. Asaph*, *Ely*, *Rochester*, *Peterborough* and *Oxford*; the Dukes of *Grafton* and *Ormond*; the Earls of *Dorset*, *Clare*, *Clarendon*, *Burlington*, *Anglesey* and *Rochester*; Viscount *Newport*, and the Lords *Paget*, *Chandos* and *Ossulston*, drew up a most wholesome Petition, which was consider'd, agreed on, and signed at the Bishop of *Rochester's* House at *Westminster*. And, tho' they had heard that his Majesty had protested, he would take it highly ill of any Man, that should offer him a thing of that Nature, yet the two Archbishops, with the Bishops of *Ely* and *Rochester*, ventured to deliver it. The Petition runs in these Words;

May it please your Majesty,

The Petition of
several Lords to
his Majesty.

‘ We your Majesty's most Loyal Subjects, in the deep Sense of the Miseries of a War, now breaking forth in the
Bowels

Bowels of your Kingdom, and of the Danger to which your Majesty's sacred Person is thereby like to be exposed, as also of the Distractions of your People by reason of the present Grievances, do think ourselves bound in Conscience of the Duty we owe to God and our holy Religion, to your Majesty and our Country, most humbly to offer to your Majesty, that in our Opinion, the only visible way to preserve your Majesty, and this your Kingdom, would be the Calling of a Parliament, regular and free in all its Circumstances. We therefore most earnestly beseech your Majesty, that you would be graciously pleased with all Speed to call such a Parliament; wherein we shall be most ready to promote such Councils and Resolutions of Peace and Settlement in Church and State, as may conduce to your Majesty's Honour and Safety, and to the quieting the Minds of your People. We do likewise humbly beseech your Majesty, in the mean time, to use such Means [*viz.* a Treaty with the Prince, and those who had declared for him] for the preventing the Effusion of Christian Blood, as your Majesty shall seem most meet.

This Petition was printed, and two Days after, the King set forth the following Answer,

My Lords.

“What you ask of me, I most passionately desire; and I promise upon the Faith of a King, that I will have a Parliament, and such a one as you ask for, as soon as ever the Prince of *Orange* has quitted this Realm: For how is it possible a Parliament should be free in all its Circumstances, as you petition for, while an Enemy is in the Kingdom, and can make a Return of near a hundred Voices?”

His Majesty's
Answer.

The Sense of the Nation at this alarming Period may be collected from the two following Papers, the first of which was delivered to the Mayor of *Derby* by the Earl of *Devonshire*, and the second was subscribed by a great Number of the Nobility, Gentry, &c. at *Nottingham*.

“That as with Grief they apprehended the Calamities that might arise from the landing of a foreign Army in this Kingdom, so they could not but deplore the Occasion given for it, by so many Invasions made of late Years on their Religion and Laws. And, whereas they could not think of any other Expedient to compose their Differences, and prevent Effusion of Blood, than that which procured a Settlement in these Kingdoms, after the late Civil Wars, *viz.* the Meeting and Sitting of a Parliament, freely and duly chosen, they thought themselves obliged, as far as in them lay, to promote it; and the rather, because the Prince of *Orange*, as appeared by his Declaration, was willing to submit his own Pretensions, and

Lord Devon-
shire's Paper,

1688.

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all

Anno 4 Jac.
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all other Matters, to their Determination. They heartily wished, and humbly prayed, that his Majesty would consent to this Expedient, in order to a future Settlement, and hoped that such a Temperament might be thought of, as that the Army then on foot might not give any Interruption to the Proceedings of a Parliament. But if, to the great Misfortune and Ruin of these Kingdoms, it should prove otherwise, they farther declared, that they would to their utmost defend the Protestant Religion, the Laws of the Kingdom, and the Rights and Liberties of the Subject.

The Notting-
ham Paper.

‘ That not being willing to deliver their Posterity over to such a Condition of Popery and Slavery, as their Oppressions inevitably threatened, they would, to the utmost of their Power, oppose the same, by joining with the Prince of Orange, for the Recovery of their almost ruined Laws, Liberties and Religion. And herein they hoped all good Protestant Subjects would, with their Lives and Fortunes, be assissant to them, and not be bugbear’d with the opprobrious Terms of Rebels, by which the Court would fright them, to become perfect Slaves to their tyrannical Insolences and Usurpations. For they assured themselves, that no rational and unbiassed Person would judge it Rebellion to defend their Laws and Religion, which all *English* Princes have sworn at their Coronation; which Oath, how well it had been observed of late, they desired a free Parliament might have the Consideration of. They indeed owned it Rebellion to resist a King that governed by Law; but he was always accounted a Tyrant that made his Will his Law; and to resist such an one they justly esteemed no Rebellion, but a necessary Defence: And on this Consideration they doubted not of all honest Men’s Assistance, and humbly hoped for, and implored the great God’s Protection, that turned the Hearts of People as pleased him best; it having been observed, that People could never be of one Mind without his Inspiration, which had in all Ages confirmed that Observation, *Vox Populi est Vox Dei.*’

Proclamation
declaring a ge-
neral Pardon.

Soon after this, the ruinous State of the King’s Affairs produced the following Proclamation: ‘ That for the Security of all Persons both in their Elections and Service in Parliament, notwithstanding they had taken up Arms, or committed any Act of Hostility, or been any way aiding or assisting therein: And for the better Assurance thereof, his Majesty had directed a general Pardon to all his Subjects to be forthwith prepared to pass his Great Seal. And for the reconciling all the public Breaches, and obliterating the very Memory of all past Miscarriages, his Majesty did hereby exhort, and kindly admonish all his loving Subjects, to dispose them-

themselves to elect such Persons for their Representatives in Parliament, as might not be byassed by Prejudice or Passion, but qualified with Parts, Experience and Prudence, proper for this Conjunction.

Anno 4. Jac.
II. 1688.

What followed next were the following Proposals in behalf of the King, by the Lords *Hallifax, Nottingham* and *Godolphin*, to the Prince of *Orange*.

S I R,

• The King commanded us to acquaint you, that he ob-
serveth all the Difference and Causes of Complaint, alledged by your Highness, seem to be referr'd to a free Parliament. His Majesty, as he hath already declared, was resolved before this to call one; but thought, that, in the present State of Affairs, it, was advisable to defer it till things were more compos'd: Yet seeing that his People still continue to desire it, he hath put forth his Proclamation in order to it, and hath issued his Writs for the calling of it. And to prevent any Cause of Interruption in it, he will consent to every thing that can be reasonably required for the Security of those that shall come to it. His Majesty hath therefore sent us to attend your Highness for the adjusting of all Matters that shall be agreed to be necessary to the Freedom of Elections, and the Security of Sitting, and is ready immediately to enter into a Treaty in order to it. His Majesty proposes, that, in the mean time, the respective Armies may be restrained within such Limits, and at such a Distance from *London*, as may prevent the Apprehensions that the Parliament may be in any kind disturbed; being desirous that the meeting of it may be no longer delayed, than it must be, by the usual and necessary Forms.

To which the Prince gave the following Answer:

• We, with the Advice of the Lords and Gentlemen assembled with us, have, in Answer, made these following Proposals. 1. That all *Papists*, and all such Persons as are not qualified by Law, be disarmed, disbanded, and removed from all Employments, Civil and Military. 2. That all Proclamations which reflect upon us, be recalled; and that if any Persons, for having assisted us, have been committed, that they be forthwith set at Liberty. 3. That for the Security and Safety of the City of *London*, the Custody and Government of the *Tower* be immediately put into the Hands of the said City. 4. That if his Majesty shall think fit to be at *London*, during the Sitting of the Parliament, that we may be there also, with equal Number of our Guards: Or if his Majesty shall please to be in any Place from *London*, whatever Distance he thinks fit, that we may be at a Place

His Highness's
Answer.

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of

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of the same Distance ; and that the respective Armies be from London thirty Miles ; and that no farther Forces be brought into the Kingdom. 5. That for the Security of the City of London, and their Trade, *Tilbury* Fort be put into the Hands of the said City. 6. That a sufficient Part of the Public Revenue be assigned us, for the Support and Maintenance of our Troops, until the Sitting of a Free Parliament. 7. That to prevent the Landing of the *French*, or other Foreign Troops, *Portsmouth* may be put into such Hands, as by his Majesty and us shall be agreed on.*

King disband his
Army, and
throws away his
great Seal into
the Thames.

Notwithstanding this Treaty, the King resolving to take Sanctuary in *France*, first, by Letter, disbanded his Army, then ordered all those Writs to be burnt that were not sent out for the calling of the Parliament, and entering a Caveat against making use of those few that were already sent out, And lastly, when he left *Whitehall*, and took Water, he threw the Great Seal into the *Thames*.

Making of the
Peers at Guild-
Hall.

December the 11th, about thirty of the Lords spiritual and temporal, then in and about Town, namely, the Archbishops of *Canterbury* and *York* ; the Bishops of *Winchester*, *St. Asaph*, *Ely*, *Rocheſter* and *Peterborough* ; the Earls of *Pembroke*, *Dorset*, *Mulgrave*, *Thanet*, *Carlisle*, *Craven*, *Aylsbury*, *Burlington*, *Berkley* and *Rocheſter* ; Viscount *Newport* and *Weymouth* ; and the Lords *Wharton*, *North* and *Grey*, *Chandois*, *Montague*, *Jermyn*, *Vaughan*, *Carbery*, *Colepeper*, *Crewe* and *Ossulſton*, all solemnly met at *Guild-Hall*, and sending for the Lord-Mayor and Aldermen of the City, who readily attended, made this memorable Declaration :


Their Declara-
tion.

‘ We doubt not but the World believes that in this great and dangerous Conjunction, we are heartily and zealously concerned for the Protestant Religion, the Laws of the Land, and the Liberties and Properties of the Subject. And we did reasonably hope, that the King having issued out his Proclamation and Writs for a Free Parliament, we might have rested secure under the Expectation of that Meeting : But his Majesty having withdrawn himself, and, as we apprehend, in order to his Departure out of this Kingdom, by the pernicious Councils of Persons ill-affected to our Nation and Religion, we cannot, without being wanting to our Duty, be silent under these Calamities, wherein Popish Councils, which so long prevailed, have miserably involved this Realm. We do therefore unanimously resolve to apply ourselves to his Highness the Prince of *Orange*, who, with so great Kindness to these Kingdoms, such vast Expence, and so much Hazard to his own Person, has undertaken, by endeavouring to procure a Free Parliament, to rescue, with as little Effusion, as possible, of Christian Blood, from the imminent Dangers of Slavery and Popery.

And

And we do hereby declare, that we will, with our utmost Endeavours, assist his Highness in the obtaining such a Parliament with all speed, wherein our Laws, our Liberties and Properties may be secured, and the Church of *England* in particular, with a due Liberty to Protestant Dissenters; and in general, that the Protestant Religion and Interest over the whole World may be supported and encouraged, to the Glory of God, the Happiness of the Established Government in these Kingdoms, and the Advantage of all Princes and States in *Christendom*, that may be herein concerned. In the mean time we will endeavour to preserve, as much as in us lies, the Peace and Security of these great and populous Cities of *London* and *Westminster*, and the Parts adjacent, by taking care to disarm all Papists, and secure all Jesuits and Romish Priests, who are in or about the same. And if there be any thing more to be performed by us, for promoting his Highness's generous Intentions for the Public Good; we shall be ready to do it, as Occasion shall require.

Anno 4^{to} Jac:
II. 1633.



This was followed by an Address from the City of *London* A Address of the
to the Prince, which runs thus: ' We the Lord-Mayor, &c. City of London
taking into Consideration your Highness's fervent Zeal for to the Prince.
the Protestant Religion, manifested to the World in your
many hazardous Enterprizes, wherein it hath pleased Almighty God to bless you with miraculous Success, do render our deepest Thanks to the Divine Majesty for the same, and beg leave to present our most humble Thanks to your Highness, particularly for your appearing in Arms in this Kingdom, to carry on and perfect your glorious Designs to rescue three Kingdoms from Slavery and Popery, and in a Free Parliament to establish the Religion, and the Laws and Liberties of these Kingdoms upon a sure and lasting Foundation. We have hitherto looked for the same Remedy for those Oppressions and imminent Dangers, which we, together with our Protestant Fellow-Subjects, laboured under, from his Majesty's Concessions and Concurrences with your Highness's just and pious Purpose express'd in your gracious Declaration. But herein finding ourselves finally disappointed by his Majesty's withdrawing himself, we presume to make your Highness our Refuge; and do in the Name of this Capital City, implore your Highness's Protection, and most humbly beseech your Highness to repair to this City, where your Highness will be received with universal Joy and Satisfaction.'

On the 21st of *December*, the Lords spiritual and temporal, to the Number of above threescore, appeared and assisted the Prince at St. *James's* in a great Council. To whom his Highness made this short Speech:

The Lords meet
the Prince of
Orange at St.
James's.

My

The Interrog-
num 1632.

His Highness's
Speech to them.

My Lords,

" I have desired you to meet here to advise the best manner how to pursue the Ends of my Declaration in calling a free Parliament, for the Preservation of the Protestant Religion, the restoring the Rights and Liberties of the Kingdom, and settling the same, that they may not be in Danger of being again subverted."

Their Lord-
ship's Vote of
Thanks, &c.

Upon speaking of which, his Highness withdrew. After the reading of the Prince's Declaration, the Lords voted their particular Thanks for his Highness's coming over; and the better to consider the most effectual Means to obtain the Ends of his Declaration, and settle a Form of Government, they resolved to assemble for the future in their antient House at *Westminster*. For which purpose they named five of the most eminent Lawyers, *viz.* Sir *John Maynard*, Mr. *Holt*, Mr. *Polluxsen*, Mr. *Bradford* and Mr. *Atkinson*, to assist them in their important Consultations, and to explain to them the Laws and Constitutions of the Realm, in the room of the Judges, who were most of them absent from *London*. They also appointed Mr. *Francis Gwin* to sign such Orders as should be from time to time by them made. It was farther proposed, that the whole Assembly should sign the Association, formerly mentioned, which the Nobility and Gentry had already subscribed at *Exeter*; to which Proposal all agreed, except the Duke of *Somerset*, the Earls of *Pembroke* and *Nottingham*, the Lord *Wharton*, and all the Bishops, save that of *London*, who set his Hand to the Association. The main Objection of the Bishops was upon the Account of the unchristian Word *Revenge*, which being afterwards changed for that of *Punishment*, they were better satisfied.

Dec. 23. The King took Shipping for *France*, having first left behind him a Paper writ with his own Hand, which was as follows:

The King's
Paper left be-
hind him when
he took Ship-
ping for *France*.

" The World cannot wonder at my withdrawing myself now this second time. I might have expected somewhat better Usage after what I writ to the Prince of *Orange* by my Lord *Feversham*, and the Instructions I gave him; But instead of an Answer, such as I might have hoped for, what was I to expect after the Usage I received, by making the said Earl a Prisoner, against the Practice and Law of Nations; the sending his own Guards at Eleven at Night, to take Possession of the Posts at *Whitehall*, without advertising me in the least manner of it; the sending to me at One a-Clock after Midnight, when I was in Bed, a kind of an Order by three Lords, to be gone out of my own Palace before Twelve that same Morning? After all this, how could I hope to be safe, so long as I was in the Power of one, who

who had not only done this to me, and invaded my Kingdoms without any just Occasion given him for it; but that did, by his first Declaration lay the greatest Asperſion upon me that Malice could invent, in that Clause of it which concerns my Son? I appeal to all that know me, nay, even to himself, that in their Conſciences, neither he, nor they, can believe me in the least capable of so unnatural a Villany, nor of so little Common Sense, to be imposed on in a Thing of such a Nature as that. What had I then to expect from one, who by all Arts hath taken such Pains to make me appear as black as Hell to my own People, as well as to all the World besides? What Effect that hath had at Home, all Mankind have seen by so general a Defection in my Army, as well as in the Nation, amongst all sorts of People.

' I was born free, and desire to continue so; and tho' I have ventured my Life very frankly on several Occasions, for the Good and Honour of my Country, and am as free to do it again, (and which I hope I shall yet do, as old as I am, to redeem it from the Slavery it is like to fall under) yet I think it not convenient to expose myself to be so secured, as not to be at Liberty to effect it; and for that Reason do withdraw, but so as to be within Call whenever the Nation's Eyes shall be opened, so as to see how they have been abused and imposed upon by the specious Pretences of Religion and Property. I hope it will please God to touch their Hearts, out of his infinite Mercy, and to make them sensible of the ill Condition they are in, and bring them to such a Temper, that a legal Parliament may be called; and that, amongst other Things which may be necessary to be done, they will agree to Liberty of Conscience to all Protestant Dissenters; and that those of my own Persuasion may be so far considered, and have such a Share of it, as they may live peaceably and quietly, as all *Englishmen* and Christians ought to do, and not be obliged to transplant themselves; which would be very grievous, especially to such as live in their own Country: And I appeal to all Men, who are considering Men, and have had Experience, whether any thing can make this Nation so great and flourishing, as Liberty of Conscience? Some of our Neighbours dread it. I could add much more, to confirm what I have said, but now is not the proper Time.'

There being now an actual *Interregnum*, about ninety Lords The Peers assembled at their House at *Westminster*, and agreed upon two * Addresses to the Prince of *Orange*, requesting him to take upon himself the Administration of public Affairs, and issue out Letters

The Interregnum 1688.



* See CHANDLER's Hist. Anno 4 Jac. II. 1788, Page 195.

Anno 4 Jac.
II. 1688.

ters to assemble a Convention of the States of the Kingdom; with both which he complied: And accordingly, *January* the 22d following,

The CONVENTION

MET at *Westminster*, and the House of Lords chose the Marquis of *Hallifax* for their Speaker, in Opposition to the Earl of *Danby*; after which the Prince of *Orange* directed a Letter to both Houses, by way of opening the Session, which see in CHANDLER's *Hist. Anno 4, Jac. II. 1688-9. Page 200*; as likewise *Page 201*, the joint Address of both Houses by way of Answer to it.

But first of all the Lords made the following Order:

They order a
Form of Prayer.

Die Martis, January the 22d. Ordered by the Lords spiritual and temporal assembled at *Westminster*, that the Lord Bishop of *London*, the Lord Bishop of *Rocheſter*, the Lord Bishop of *Norwich*, the Lord Bishop of *Ely*, the Lord Bishop of *Chicheſter*, the Lord Bishop of *Glouceſter*, the Lord Bishop of *Bath and Wells*, the Lord Bishop of *Peterborough*, the Lord Bishop of *Lincoln*, the Lord Bishop of *Bristol*, and the Lord Bishop of *St. Aſaph* [*viz. Compton, Sprat, Lloyd, Turner, Lake, Frampton, Ken, White, Barlow, Trelawney and Lloyd*] be, and are hereby desired to draw up a Form of Prayer and Thanksgiving to Almighty God, for having made his Highness the Prince of *Orange* the glorious Instrument of the great Deliverance of this Kingdom, from Popery and Arbitrary Power; to be used in the City of *London* and ten Miles distant thereof, on the 31st Instant, and throughout the whole Kingdom, on the 14th of *February* next.

In which the
Prince of O-
range is to be
named.

Six Days after, they likewise made a second Order, whereby it was recommended to the Lords the Bishops, to whom was referred the drawing up the Prayers for a Day of Thanksgiving to Almighty God, for having made his Highness the Prince of *Orange* the glorious Instrument, &c. That they draw up a particular Prayer for his Highness the Prince of *Orange*, to be inserted in that Form.

In the mean Time the unfortunate King *James*, foreseeing what Advantages the Nation was like to take of his withdrawing himself out of his Kingdom, thought it proper to write a moving Letter from *St. Germain's*, directed to the Lords and others of his Privy-Council, in which he declared,

King James's
Letter from *St.*
Germain's to the
Lords of the
Council.

That he had not taken away not only all just Causes, but even Pretensions of Discontent, and redressed all those things that were set forth as the Causes of the Invasion: That the Prince of *Orange* seeing all the Ends of this Declaration answered, the People beginning to be undeceived, and returning apace to their Duty; and well foreseeing, that if a Free Parliament

liament should meet at the time appointed, such a Settlement, in all Probability, would be made, both in Church and State, as would totally defeat his ambitious Designs, resolved by all means possible to prevent the meeting of the Parliament: That to do this the most effectual way, the Prince thought fit to lay a Restraint upon his Royal Person; for as it were absurd to call that a Free Parliament, where there is any Force in either of the Houses, so much less can that Parliament be said to act freely, where the Sovereign, by whose Authority they meet and sit, and from whose Royal Assent all their Acts receive their Life and Sanction, is under actual Confinement. That the Sense of the Indignities he had suffered, both in his own, and in the Person of the Earl of **Feverham*, and the just Apprehensions of farther Attempts, by them who had already endeavoured to murder his Reputation by infamous Calumnies (as if he had been capable of supposing a Prince of *Wales*) together with a serious Reflection on a Saying of his Royal Father, *That there is little Distance between the Prisons and the Graves of Princes* (which afterwards proved but too true in his Case) could not but persuade him to make use of that Right which the Law of Nature gives to the meanest of his Subjects, of freeing himself from that unjust Confinement: That this he did; not more for the Security of his own Person, than that, thereby, he might be in a better Capacity of transacting and providing for every thing that might contribute to the Peace and Settlement of his Kingdoms. That as no Change of Fortune shall make him condescend to any thing unbecoming his Royal Station, so neither the Provocation or Ingratitude of his own Subjects, nor any other Consideration, shall ever prevail with him, to make the least Step contrary to the true Interest of the *English* Nation, which he ever did, and ever must look upon as his own. That he requir'd them of the Privy-Council, to make these his Intentions known to the Lords spiritual and temporal, and the Lord-Mayor and Commons of the City of *London*, and to all his Subjects in general, and to assure them, that he desired nothing more than to return and hold a Free Parliament; wherein he might have the best Opportunity of undeceiving his People, and shewing the Sincerity of those Protestations he had often made of preserving the Liberties and Properties of his Subjects, and the Protestant Religion, more especially the Church of *England*, as by Law Established: That in the mean time they should send him their Advice, what was fit to be done by him towards his Returning, and the accomplishing of these good Ends; and that he required them to endeavour to suppress all Tumults and Disorders,

1688. U u that

* The Earl of *Feverham* had been put under Arrest, by the Prince's Order, when sent on a Message to him by the King.

Interregnum, that the Nation might receive the least Prejudice from the present Distractions that was possible.

1688-9.



This Letter was no sooner sent, but it was publicly printed and dispersed in *London*; but it being countersigned by the Earl of *Melfort*, a profess'd Papist, and suppos'd to be dictated by the Councils of *France*, his renew'd Promises made but small Impression upon those who even retained an Affection for him. There being no avow'd Answer made to it, while

Another Letter
to the Lords
and Commons.

the Convention was sitting, King *James* wrote another Letter, directed to the Lords and Commons; in which, with great Concern, he told them, ' That he thought himself obliged in Conscience to do all he could to open his Peoples Eyes, that they might see the true Interest of the Nation in this important Conjuncture: That finding he could no longer stay with Safety, nor act with Freedom, he had left the Reasons of his withdrawing from *Rocheſter*, under his own Hand: That understanding that Letter [here repeated at length] was not taken to be his, but was maliciously suppress'd by the Prince of *Orange*, he wrote to several of his Privy-Council, and directed Copies thereof to divers of them, the Peers of the Realm, believing none durst intercept or open any of his Letters: That of all these he had no Account, nor did he wonder that all Arts were used to hinder them from knowing his Sentiments: That he was resolved nothing should be omitted on his Part, that could contribute towards the Redress of all former Errors, or present Disorders, or add to the securing of the Protestant Religion, or the Property of the Subject; intending to refer the whole to a Parliament legally called, freely elected, and held without Constraint: And that none might despair of his Mercy, he declared on the Word of a King, that his Pardon should be extended even to those that betray'd him, (some few excepted) resolving in that Parliament, by an Act of Oblivion, to cover all Faults.'

Rejected by the
last;

This the Commons rejected unopen'd: But a Copy of the same Letter being likewise sent to the House of Lords, directed to the Marquis of *Hallifax*, their Speaker, some of the Assembly moved to have it opened and read, but others warmly oppos'd it; at length it was resolved, that the Lord *Preston* should be sent for. His Lordship accordingly appeared, and owned that the Letter was brought to him by a *Scotsman*; upon which he was ordered to attend the House with the Bearer on the 4th of *February*: But his Lordship was never called that Day, nor any farther Notice was taken of the Letter, which, by the particular Friends of King *James*, was thought a great Hardship.

And dropp'd by
the first.

January the 29th, the Commons sent up the following Vote to the Lords for their Concurrence: ' Resolved, that King

King *James* the Second, having endeavoured to subvert the Constitution of the Kingdom, by breaking the Original Contract between the King and People; and by the Advice of Jesuits, and other wicked Persons, having violated the fundamental Laws, and withdrawn himself out of the Kingdom, hath abdicated the Government, and that the Throne is thereby become vacant.

Interregnum,
1688-9.

Upon which their Lordships resolving into a Committee of the whole House, of which the Earl of *Danby* was Chairman, the first Motion that was made, was, 'Not to agree with the Commons, *That the Throne was vacant*, but only first to suppose it, for the present, leaving it to be farther examined afterwards, in order to cut short several other Questions, by determining this first, *Whether the Throne being vacant, it ought to be filled up by a Regent or a King?*' This Question was debated with great Learning, much Skill, and no little Warmth: Among the Orators, the Earl of *Nottingham* brought many Arguments from the *English* History to support his Opinion for a Regency with the Regal Power, leaving the Title and Dignity on King *James*; adding a fresh Instance from *Portugal*, where *Don Pedro* had only the Title of a Regent conferred upon him, while his depos'd Brother was alive. This Speech is said to have had so great an Influence upon the House, that it would have been followed by the Majority, had it not been strenuously opposed by the Marquis of *Halifax* and the Earl of *Danby*, who by their great Skill laid open the inextricable Difficulties attending that Proposal. So that the Question being put to the Vote, fifty one were for a King, and forty nine only for a Regent, namely, the Dukes of *Somerset*, *Ormond*, *Southampton*, *Grafton*, *Beaufort* and *Northumberland*; the Earls of *Kent*, *Pembroke*, *Clarendon*, *Rochester*, *Craven*, *Westmoreland*, *Scarsdale*, *Chesterfield*, *Litchfield*, *Yarmouth* and *Lindsey*; Viscount *Weymouth*, the Lords *Coventry*, *Brook*, *Leigh*, *Ferris*, *Maynard*, *Chandois*, *Fermin*, *Arundel* of *Trevise*, *Dartmouth*, *Godolphin*, *Griffin*, and five more; the Archbishop of *York*, the Bishops of *Norwich*, *Winchester*, *Ely*, *St. Asaph*, *Bath* and *Wells*, *Peterborough*, *Chichester*, *Rochester*, *St. Davids*, *Oxford*, *Glocester* and *Lincoln*. The Earls of *Huntington* and *Mulgrave* did not appear in the House; and the Lord *Churchill* likewise kept at home upon some Indisposition. The Archbishop of *Canterbury* was also absent; and indeed the Prejudices conceiv'd against a Deposing Power, as an Art and Act of Popery, had made so great an Impression upon the Minds of the Clergy, that no Bishops came into the Opinion of filling up the Throne, except the Bishops of *London* and *Bristol*. However, the Party for a King was soon after strengthened by four Dukes that came

Debate occasion'd by the Commons.

Vote of Vacancy.

Earl of Nottingham.

Marquis of Halifax, Earl of Danby.

Division on the Question.

Interregnum, over to them, viz. the Dukes of Ormond, Southampton, 1658-9. *Grafton and Northumberland.*

Farther Debate
on the Com-
mon's Vote.

Debate on the
Words ADDI-
CATED and
DESERTED.

Forty Lords
protest against
the Vote, that
the Throne was
not vacant.

Tumultuous
Petition set on
foot.

On the next Day, Jan. 30, the Lords proceeded farther upon the Grand Vote of the other House, and put this Question, *Whether or no there was an Original Contract between King and People?* Which Question occasioned many warm Disputes; not a few maintaining, that Kings held their Crowns by Divine Right; which others vehemently denied, asserting, That all Power originally belonged to the Community, and to the King only by mutual Compact. Thereupon the House being divided, fifty three were for the last Position, and forty six only for the Negative; by which it appeared, that the Party that were for a Regency began to lose Ground. The next Question was, *Whether King James had broke that Original Contract?* But this being so manifest, it was soon carried in the Affirmative. On the next Day, their Lordships took into Consideration the Word *Abdicated*; and concluded that *Deserted* was more proper. They next examined the Word *Vacant* and put this Question, *Whether King James having broke that Original Contract between him and his People, and deserted the Government, whether the Throne was thereby vacant?* This Question was debated with more Heat and Contention than any of the former, and upon a Division, one Party, who maintained it as a Maxim of our Law, *That the King never dies*, and therefore, *that the Throne can never be vacant*, carried the Negative of the Question by eleven Voices. From this some Peers presently inferred, that the Crown was devolv'd upon the next Heir; and moved that the Prince and Princess of Orange should be declared King and Queen, which was also carried in the Negative by five Voices. The next Day their Lordships agreed to communicate their Resolutions to the House of Commons; but before they rose, the Marquisses of *Hallifax* and *Winchester*, the Earls of *Danby* and *Devonshire*, the Lord *Delamere* and others, to the Number of forty, entered their Protestations against the Vote of the Day before, namely, *That the Throne was not vacant.*

While these Matters were warmly debated in the Convention and the Town, and all Men still in Suspense which way they would be determined, on the first Day of *February*, some zealous Persons set on foot the following Petition, and endeavoured to get it subscribed by the Multitude indifferently, going to all public Places to solicit Men's Hands: To the Lords spiritual and Temporal assembled in the grand Convention, the humble Petition of great Numbers of Citizens, and other Inhabitants of the Cities of *London* and *Westminster*. 'Whereas we are in a deep Sense of the Danger

of

of Delays, and perplex'd Debates about settling the Government, at this Time vacant, by Reason whereof the necessary Ends of Government cannot be duly administered, we humbly desire that his most illustrious Highness the Prince of Orange, and his Royal Consort the Princess, may be speedily settled on the Throne. by whose Courage, Conduct and Reputation, this Nation and the Protestant Religion may be defended from our Enemies at Home and Abroad; and that Ireland, now in a bleeding and deplorable Condition, may be rescued from its Miseries, and these Kingdoms settled on a lasting Foundation in Peace and Liberty.' Whereupon his Highness the Prince being informed of the ill Consequences and Scandal of this way of Proceeding, caused the following Order to be made and published to suppress it: *By the Lord-Mayor, &c.* 'Whereas his Highness the Prince of Orange, has been pleased to signify to me this Day, that divers Persons (pretending themselves to be Citizens of London) in a tumultuous and disorderly manner have lately disturbed the present Convention of the Lords and Commons at Westminster, upon Pretence of petitioning. It being regular and usual for the Citizens of this City, that are under the Apprehension of any Grievance, to make their Application to myself, and the Court of Aldermen: Therefore, with the Advice of my Brethren, the Aldermen of this City, these are to require you, that you command within your Ward, that they forbear any tumultuous Disturbance, or Assembly, as they will answer the contrary at their utmost Peril.'

Interregnum,
1688-9

Discourag'd by
the Prince,

Lord Mayor's
Order thereon.

However, the Lords proceeded in their own way; but to shew their Disinclinations to King James, on the 2d of February, it was ordered by the Lords spiritual and temporal, assembled at Westminster, that the Day of Thanksgiving on the 6th of February instant, on which Day the late King James II. came to the Throne, shall not be observed in this Kingdom. On the same Day their Lordships sent a Message to the Commons by Sir Miles Cook, and Mr. Metuain, two Masters of Chancery, to acquaint them, that they had considered of their Vote of the 28th of January last, to which they concurred, with these two Amendments; first, instead of the Word *abdicated*, they would have *deserted* be put in; and next, these Words, *And that the Throne is thereby vacant*, to be left out.

Order of the
Lords with re-
spect to the
King's Birth-
Day.

This drew on first a Conference, and then a free Conference between the two Houses, which see at large (as taken by Mr. Blaney) in CHANDLER's Hist. Anno 4 Jac. II. 1688. from Page 204, to Page 255; as likewise the Declaration made by both

Anno 1 Will.
III. 1684.

both Houses on the Tender of the Crown to the Prince and Princess of Orange, Anno 1688-9. Page 255.

The next Day after the Proclamation of their Majesties, viz. Feb. 14. the King was pleased to nominate the following Lords and Gentlemen to be his Privy-Council viz.

His Royal Highness Prince George of Denmark.

William Lord Archbishop of Canterbury.

Thomas Earl of Danby, Lord President of the Council.

Charles Marquis of Halifax, Lord Privy-Seal.

Henry Duke of Norfolk, Hereditary Earl Marshal.

Charles Marquis of Winchester.

Robert Earl of Lindsey, Lord Great Chamberlain of England.

William Earl of Devonshire, Lord-Steward of the Household.

Charles Earl of Dorset, Lord Chamberlain of the Household.

Aubrey Earl of Oxford.

Charles Earl of Shrewsbury, Principal Secretary of State.

William Earl of Bedford.

John Earl of Bath.

Charles Earl of Macclesfield.

Daniel Earl of Nottingham, Secretary of State.

Thomas Viscount Falconberg.

Francis Visc. Newport, Treasurer of the Household.

Richard Viscount Lumley.

Henry Lord Bishop of London.

Philip Lord Wharton.

Ralph Lord Montagu.

Henry Lord Delamere.

John Lord Churchill.

Mr. Bentinck, Groom of the Stole.

Henry Sidney Esq;

Sir Robert Howard.

Sir Henry Capel.

Henry Powle Esq; Speaker of the House of Commons,

Edward Ruffel Esq;

Hugh Boscarven Esq;

To whom were added, Thomas Wharton Esq; Comptroller of the Household.

Sir John Lowther of Lowther, Vice-Chamberlain to the King.

Promotions.

Their Majesties, having issued a Proclamation for continuing all qualify'd Persons in Offices, likewise made the following Promotions. Monf. D'Auverquerque, Master of the Horse; the Marechal de Schomberg, Master of the Ordnance; the Lord Montagu, Master of the Great Wardrobe; Monf. Zulestein, Master of the Robes; the Bishop of London, Dean of the Chappel; the Lord Lovelace, Captain of the Gen-

Gentlemen-Pensioners; the Duke of *Ormond*, the Earl of *Oxford*, the Lord *Mordaunt*, the Lord *Lumley*, the Lord *Churchill*, Mr *Sidney*, Gentlemen of the Bed Chamber; the Earl of *Wiltshire*, Lord Chamberlain to the Queen; *John How* Esq; Vice-Chamberlain; Mr. *Villers*, Master of the Horse to the Queen; The Countess of *Derby*, first Lady of the Bed Chamber. The Seals having been refused by the Marquis of *Hallifax*, and Lord *Nottingham*, were given to Sir *John Maynard*, *Anthony Kecke*, Esq; and *William Rawlinson*, Esq; who were both knighted, as Lords Commissioners. The Admiralty was also put in Commission, and Admiral *Herbert*, the Earl of *Carberry*, Sir *Michael Wharton*, Sir *Thomas Lee*, Sir *John Chicheley*, Sir *John Lowther* of *Whitehaven*, and *William Sacheverel*, which last, to his singular Honour, excused himself, saying, *Since he was not qualify'd for the Service, he could not in Conscience accept of the Salary.*

Ann: 1 Will.
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The Treasury was put into the Hands of the Lord *Mordaunt*, the Lord *Delamere*, the Lord *Godolphin*, *Richard Hampden*, Esq; afterwards Chancellor of the Exchequer, and Sir *Henry Campbell*. *Henry Powle*, Esq; was made Master of the Rolls; *Henry Polixfen*, Esq; Attorney General; Sir *George Treby*, Solicitor-General; the Honourable *George Booth*, Esq; Sir *Richard Temple*, Bart. Sir *Robert Southwel*, *Thomas Pelham* Esq; Sir *Robert Clayton*, Sir *Patience Ward*, Commissioners of the Customs; Sir *Henry Vane*, Sir *Henry Ashurst*, Sir *Humphrey Edwin*, *Thomas Frankland*, Esq; *John Danvers*, Esq; *Francis Perry*, Esq; *John Wilcocks*, jun. Esq; Commissioners of the Excise.

The 18th. The new King met his People for the first time in Parliament, and made a Speech to both Houses, (which is to be found in *CHANDLER's Hist. Ann: 1 William and Mary, 1688-9. Page 276*) having previously put this Question to his Council, viz. *Whether the Convention might be legally turned into a Parliament?* which was determined in the Affirmative by the Majority.

About this time, likewise, the King having dispatched an affectionate Letter to the States, the same Messenger carried an Order for the Enlargement of the Earl of *Sunderland*, then under Confinement at *Rotterdam*, his Conduct in the late Reign having been held sufficiently justified by the following Letter, about that time publish'd in *London*.

To comply with what you desire, I will explain some things which we talked of before I left *England*. I have been in a Station of great Noise, without Power or Advantage whilst I was in it, and to my Ruin now I am out of it. I know I cannot justify myself by saying, tho' it is true, that I thought to have prevented much Mischief; for, when

Earl of Sunderland's Letter in Justification of his own Conduct.

I

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I found that I could not, I ought to have quitted the Service; neither is it an Excuse, that I have got none of those Things which usually engage Men in public Affairs: My Quality is the same that it ever was, and my Estate much worse, even ruin'd, tho' I was born to a very considerable one, which I am asham'd to have spoiled, tho' not so much as if I had increas'd it by indirect Means. But, to go on to what you expect: The Pretence to a dispensing Power being not only the first thing which was much disliked since the Death of the late King, but the Foundation of all the rest, I ought to begin with that which I had so little to do with, that I never heard it spoken of till the Time of *Monmouth's* Rebellion, when that the King told some of the Council, of which I was one, that he was resolv'd to give Employments to *Roman Catholics*, it being fit that all Persons should serve who could be useful, and on whom he might depend. I think every body advis'd him against it, but with little Effect, as was soon seen: That Party was so well pleas'd with what the King had done, that they persuad'd him to mention it in his Speech at the next Meeting of the Parliament, which he did after many Debates, whether it was proper or not: In all which I oppos'd it, as is known to very considerable Persons, some of which were of another Opinion; for I thought it would engage the King too far, and it did give such Offence to the Parliament, that it was thought necessary to prorogue it; after which the King fell immediately to the supporting the dispensing Power, the most chimerical Thing that was ever thought of, and must be so till the Government here is as absolute as in *Turky*; all Power being included in that one. This is the Sense I ever had of it, and when I heard Lawyers defend it, I never changed my Opinion nor Language; however it went on, most of the Judges being for it, and was the chief Business of the State, till it was looked on as settled. Then the Ecclesiastical Court was set up, in which there being so many considerable Men of several Kinds, I could have but a small Part, and that after Lawyers had told the King it was legal, and nothing like the High Commission-Court. I can most truly say, and it is well known, that for a good while I defended *Magdalen College* purely by Care and Industry, and have hundreds of times begged of the King never to grant *Mandates*, or to change any thing in the regular Course of Ecclesiastical Affairs, which he often thought reasonable, and then, by perpetual Importunities, was prevail'd upon against his own Sense, which was the very Case of *Magdalen College*, as of some others.

These Things which I endeavour'd, tho' without Success,
drew

drew upon me the Anger and Ill-will of many about the King. The next Thing to be tried, was to take off the Penal Laws and Tests, so many having promised their Concurrence towards it that his Majesty thought it feasible; but he soon found it was not to be done by that Parliament, which made all the *Catholics* desire it might be dissolved, which I was so much against, that they complained of me to the King, as a Man who ruin'd all his Designs, by opposing the only Thing which could carry them on; Liberty of Conscience being the Foundation on which we were to build.

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III. 1688-9.

‘That was first offered at by the Lord *Clifford*, who by it had done the Work in the late King’s Time, if it had not been for his Weakness; and the Weakness of his Ministers; yet I hindered the Dissolution several Weeks, by telling the King that the Parliament in being would do every thing he could desire, but the taking off the Penal Laws and Tests; or the allowing his dispensing Power, and that any other Parliament, tho’ such a one could be had as was proposed, would probably never repeal those Laws; and, if they did, they would certainly never do any thing for the Support of the Government, whatever Exigency it might be in. At that time the King of *Spain* was sick, upon which I said often to the King, That if he should die, it would be impossible for his Majesty to preserve the Peace of *Christendom*; that a War must be expected; and such a one as would chiefly concern *England*; and that if the present Parliament continued, he might be sure of all the Help and Service he could wish; but in case he dissolved it, he must give over all Thoughts of foreign Affairs, for no other would assist him, but on such Terms as would ruin the Monarchy; so that from abroad or at home, he would be destroy’d, if the Parliament were broken, and any Accident should happen, of which there were many, to make the Aid of his People necessary to him. This and much more I said to him several times privately, and in the hearing of others. But being overpowered, the Parliament was broke, the Clofetting went on, and a new one was to be chosen. Who was to get by Clofetting, I need not to say, but it was certainly not I, nor any of my Friends; many of them suffer’d, whom I would fain have saved, and yet I must confess with Grief, that when the King was resolved, and there was no Remedy, I did not quit, as I ought to have done, but served on, in order to the calling another Parliament. In the midst of all the Preparations for it, and whilst the Corporations were regulating, the King thought fit to order his Declaration to be read in all Churches, of which I most solemnly protest I never heard one Word, till the King declar’d it in Council: That drew
1688-9. X x on

Anno 1 Will.
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on the Petition of the Lord Archbishop of *Canterbury*, and the other Lords the Bishops, and their Persecution, which I was so openly against, that by arguing continually to shew the Injustice and Imprudence of it, I brought the Fury of the *Roman Catholics* upon me to such a degree, and so unanimously, that I was just sinking, and I wish I had then sunk : But whatever I did foolishly to preserve myself, I continued still to be the Object of their Hatred, and I resolved to serve the Public as well as I could, which I am sure most of the considerable *Protestants* then at Court can testify ; and so can one very eminent Man of the Country-Party, who I would have perswaded to come into the Business, which he might have done, to have helped me to resist the Violence of those in Power : But he despaired of being able to do any good, and therefore would not engage. Some Time after came the first News of the Prince's Designs, which were then not look'd on as they have prov'd ; no body foreseeing the Miracles he has done by his wonderful Prudence, Conduct and Courage ; for the greatest Thing which has been undertaken these thousand Years, or perhaps ever, could not be effected without Virtues hardly to be imagined till seen nearer hand. Upon the first Thought of his coming, I laid hold of the Opportunity to press the King to do several things which I would have had done sooner ; the chief of which were to restore *Magdalen College*, and all the Ecclesiastical Preferments, which had been diverted from what they were intended for, to take off my Lord Bishop of *London's* Suspension, to put the Countries into the same Hands they were in some time before, to annul the Ecclesiastical Court, and to restore entirely all the Corporations of *England*. These Things were done effectually by the Help of some about the King, and it was then thought I had destroyed myself by enraging again the whole *Roman Catholic* Party, to such a height as had not been seen : They dispersed Libels of me every Day ; told the King, that I betrayed him ; that I ruin'd him, by perswading him to make such shameful Condescensions ; but most of all by hindering the securing the chief of the disaffected Nobility and Gentry, which was proposed as a certain Way to break all the Prince's Measures, and by advising his Majesty to call a free Parliament, and to depend upon that, rather than upon any foreign Assistance. It is true, I did give him those Councils, which were called weak, to the last Moment he suffer'd me in his Service : Then I was accused of holding Correspondence with the Prince, and it was every where said among them, That no better could be expected from a Man so related as I was to the *Bedford* and *Leicester* Families, and so allied to *Duke Hamilton*, and the Marquis

Marquis of Halifax. After this, Accusations of High Treason were brought against me, which, with some other Reasons relating to Affairs abroad, drew the King's Displeasure upon me, so as to turn me out of all, without any Consideration, and yet I thought I escaped well, and expected nothing less than the Loss of my Head, as my Lord *Middleton* can tell, and I believe none about the Court thought otherwise; nor had it been otherwise, if my Disgrace had been deferred a Day longer, all things being prepared for it. I was put out on the 27th of *October*, the *Roman Catholics* having been two Months working the King up to it, without Intermission, besides the several Attacks they had made upon me before, and the unusual Assistance they obtain'd to do what they thought necessary for the carrying on their Affairs, of which they never had greater Hope than at that Time, as may be remember'd by any who were then at *London*. But you desired I would say something to you of *Ireland*, which I will do in very few Words, but exactly true.

Anno 1 Will.
III. 1683-9.

• My Lord *Tirconel* has been so absolute there, that I never had the Credit to make an Ensign, or to keep one in, nor to preserve some of my Friends, for which I was much concern'd, from the least Oppression and Injustice, tho' I endeavour'd it to the utmost of my Power. But yet with Care and Diligence, being upon the Place, and he absent, I diverted the calling a Parliament there, which was design'd to alter the Acts of Settlement. Chief Justice *Nugent* and Baron *Rice* were sent over with a Draught of an Act for that purpose, furnished with all the pressing Arguments could be thought on to persuade the King; I was offer'd 40000*l.* for my Concurrence, which I told to the King, and shewed him at the same time the Injustice of what was proposed to him, the Prejudice it would be to that Country, with so good Success that he resolved not to think of it that Year, and perhaps never. This I was help'd in by some Friends, particularly my Lord *Godolphin*, who knows it to be true, and so do the Judges before-named, and several others.

• I cannot omit saying something of *France*, there having been so much talk of a League between the two Kings. I do protest I never knew of any; and if there were such a thing, it was carried on by other sort of Men last Summer. Indeed *French Ships* were offered to join with our Fleet, and they were refused; since the Noise of the Prince's Design, more Ships were offered, and it was agreed how they should be commanded, if ever desired. I opposed, to Death, the accepting of them, as well as any Assistance of Men, and can say most truly, that I was the principal Means of hindering

Annoⁱ Will.
III. 1688-9.

both, by the help of some Lords, with whom I consulted every Day, and they with me, to prevent what we thought would be of great Prejudice, if not ruinous to the Nation : If the Report is true, of Men, Ships, and Money, intended lately for *England* out of *France*, it was agreed upon since I was out of Business, or without my Knowledge ; if it had been otherwise, I believe no Body thinks my Disgrace would have happened. My greatest Misfortune has been to be thought the Promoter of those things I opposed and detested, whilst some I could name have been the Inventers and Contrivers of what they have had the Art to lay upon others ; and I was often foolishly willing to bear with what my Master would have done, though I used all possible Endeavours against it. I lie under many other Misfortunes and Afflictions extreme heavy, but I hope they have brought me to reflect upon the Occasion of them, the loose, negligent, unthinking Life I have hitherto led, having been perpetually hurried away from all good Thoughts, by Pleasure, Idleness, the Vanity of the Court, or by Business. I hope, I say, that I sha' overcome all the Disorders my former Life had brought upon me, and that I shall spend the remaining Part of it in begging of Almighty God, that he will please either to put an End to my Sufferings, or give me Strength to bear them ; one of which he will certainly grant to such as rely on him, which I hope I do, with the Submission that becomes a good Christian. I would enlarge on this Subject, but that I fear you might think something else to be the Reason of it, besides the true Sense of my Faults, and that obliges me to restrain myself at present. I believe you will repent in having engaged me to give you this Account, but I cannot forbear the doing of what you desired me. "

Bill for regulating Trials pass'd.

February the 26th. A great Debate occurred in the House of Lords, on the Bill for the better regulating the Trials of the Peers of *England* ; and *March* the 6th, the Question being put, Whether this Bill shall pass ? It was resolved in the Affirmative.

Leave was given to any Lords to enter their Dissents ; and accordingly these Lords following entered their Dissents in the Reasons following :

Protest thereon.

1st, Because nothing ever was or may be put into an Act of Parliament, that can reflect so much upon the Honour of the Peerage as this will.

2^{dly}, Because this sets the Honour of the Peers and the Commons upon an equal foot.

3^{dly}, Because such Persons as may have Causes to be heard at the Bar of this House will not be so confident of the Justice

tice of the Peers, and consequently be jealous of the Right that may be expected upon Impeachments. Annals & Well,
III. 1688-9.

4thly, Because this strikes at the Root of all the Privileges of the Peers, most of which they claim by reason of the great Regard that the Law has to the Honour and Integrity of the Peers above that of the Commons; the Statute *de Scandalis Magnatum* being enacted for that Reason only.

5thly, Because it will be, in some sort, a Mark of Reproach upon every Peer who shall be challenged, unless there be very great and apparent Cause for it.

6thly, Because this will tend to maintain Feuds and Animosities amongst the Peers.

7thly, Because, at this time, it is unreasonable, considering the late Disputes and Divisions that have been in this House.

8thly, Because the Honour of every Man, much more of a Peer, is, or ought to be more valuable than his Life.

*Delawarr, North and Grey, Kingston, Lindsey, G. C. Craven, Northampton, * Delamer, Stamford, Pembroke, Lucas, H. London, Morley and Mounteagle, † Winchester, Bedford, Manchester, Norfolk and Marshall, Berkeley, S.*

The King finding by several Instances that the House of Peers acted with more Unanimity than the Commons, it was in that House where his Majesty caused such Acts to be set on foot, as tended to the Confirmation of the present Settlement; and because the Dissenters had very much contributed to the Revolution, a Bill for exempting them from the Penalties of certain Laws was read the first time by the Peers on the 28th of February. Upon this Occasion the Earl of Nottingham moved that a Bill of Comprehension, and another of Toleration should be presented to the House, whereby all moderate Presbyterians might be reconciled to the Church of England, and admitted to ecclesiastical Benefices, which was universally applauded, even by the Lords spiritual and temporal then present, insomuch that the Earl of Nottingham received the Thanks of the House for this Motion; pursuant to which a Bill was brought in on the 11th of March following, for uniting their Majesties Protestant Subjects. However, some of the Dissenters put a sinister Construction upon the Earl's Motion, giving it out that 'twas made with no other Design than to try how they stood affected towards the Church of England. The same Day (February

Earl of Nottingham moves for a Bill of Comprehension.

Receives the Thanks of the House.

* Henry Booth, Lord Delamer, created Earl of Warrington April the 15th, 1689.

† Charles Pawlet, Marquis of Winchester, created Duke of Bolton April the 9th, 1689.

Anno 1 Will.
III. 1682-9.

On the 28th) Upon Information that several Papists continued in the Cities of *London* and *Westminster*, the Lords ordered Sir *William Waller* to secure, or cause to be secured, all such Papists or reputed Papists, and return their Names to the Committee appointed to bring in a Bill for removing all such from the City of *London*; which Bill was accordingly presented to the House on the first Day of *March*.

Inquiry into the
Death of the
Earl of *Essex*.

The Death of the late Earl of *Essex* was attended with so many suspicious Circumstances, that nothing but Sovereign Power could stop the Enquiries that ought to have been made after it. That Earl had shewn himself eminently industrious in promoting the Bill of Exclusion, which made the Popish Party resolved to be rid of him at any rate. On the 13th of *July*, 1683, while the Lord *Russel* was upon his Trial, on account of the *Presbyterian* or *Rye-House* Plot, News was brought into the Court at the *Old Bailey*, that the Earl of *Essex*, being at that time a Prisoner in the *Tower*, for the same pretended Conspiracy, had murdered himself, by cutting his Throat with a Razor, to prevent the Hand of Public Justice; which Fact was urged by some of the Council against the Lord *Russel*, as a Confirmation of the Plot. It was highly improbable, that a Person of the Earl of *Essex*'s Composedness and Piety should offer Violence to himself; and the Endeavours the (then) Court used to stifle the thing, and to prevent the Publication of a Book printed in *Holland* upon this Subject, occasioned no small Murmurings; which now reviving afresh, the House of Lords thought fit to enquire into that Affair. Captain *Holland* was by their Order committed to *Newgate*, upon Suspicion of the Earl's Murder; and several Persons, particularly Sir *Christopher Musgrave*, and Mr. *Baker*, were examined as Witnesses concerning the same; but notwithstanding all these Enquiries, no sufficient Discovery could be made of that fatal Accident, about which History must therefore be silent, and forbear all injurious Reflections on the Memory of Princes.

On the first Day of *March* the King sent a remarkable Message to the House of Lords by Viscount *Mordant*, who acquainted their Lordships,

A Message from
the King, relating
to his securing
certain suspected
Persons.

“ That in this Conjunction of Affairs, and for the public Safety, his Majesty had secured some Persons as dangerous to the Government, and thought it might be convenient to secure more; and being extremely tender of doing any thing that the Law did not fully warrant, had given Order that the Lords might be acquainted with what he had thought himself obliged to do for the public Peace and Security of the Government.”

There.

Therefore a Committee was immediately appointed to prepare an Address to be presented to the King upon this Occasion from both Houses, ' Expressing their most humble Thanks for his Majesty's great Care of their Liberties, and for his gracious Communication of this Matter; and humbly to advise and desire his Majesty to take such extraordinary Care of the Government in this Conjunction, by securing all disaffected Persons, as might prevent any Disturbance of the public Peace, and that such Persons as were, or should be so committed, might be retained till the first Day of the next Term, if his Majesty should see Cause for it.'

Anno 1 Will.

III. 1688-9.

Address thereon

The Commons made some Difficulty to give their Concurrence to this Address, which seemed to allow the King a Power of dispensing with the *Habeas Corpus Act*; and therefore thought it more legal to bring in a Bill to empower his Majesty to apprehend and detain such Persons, as he should find just to Cause suspect were conspiring against the Government; which went in a few Days thro' both Houses, and afterwards passed into an Act by the Royal Assent. This Message was occasioned by the securing the Earl of Arran, Sir Robert Hamilton, and two other Scotsmen, who, by some intercepted Letter from France, had been suspected to endeavour the Restoration of King James, and were thereupon committed to the Tower. It was also added, that the said Earl had reflected on the King, as if his Lordship's being, some Days before, set upon by four Russians that attacked him in his Chair, and out of whose Hands he narrowly escaped, had been occasioned by his being unshaken in his Fidelity to his former Sovereign.

Seven Days before his Majesty had signified, by Message to the Commons, the News of King James's Expedition to Ireland, which they communicated to the Lords; and both Houses thereupon in a joint Address declared, they would stand by his Majesty with their Lives and Fortunes. The remarkable Answer to this Address is to be found in CHANDLER's Hist. Anno 1 William and Mary 1689. Page 281.

King James's Expedition to Ireland communicated by Message.

The second, fourth and fifth Days of March were partly spent, by both Houses, in taking the Oaths of Fealty, appointed by the late Act, for removing and preventing all Questions and Disputes concerning the assembling and sitting of this present Parliament, and in subscribing the Declaration, pursuant to an Act of the 30th of King Charles II. In the House of Commons few or none refused to take the said Oaths; but in the Upper House not above ninety temporal, and only eight spiritual Lords complied with the Act. Those eight Prelates were the Archbishop of York, and the Bishops

Several Lords declare taking the Oaths.

Anno 1 Will.
III. 1688-9.

Bishops of *London, Lincoln, Bristol, Winchester, Rochester, Landaff, and St. Asaph*, whose Example was afterwards followed by the Bishops of *Carlisle and St. Davids*; as for the Archbishop of *Canterbury*, with the rest of the discontented Clergy, they were resolved to preserve inviolable the Allegiance they had sworn to King *James*. The Duke of *Newcastle*, the Earls of *Clarendon, Litchfield, Yarmouth, Exeter and Stamford*, and the Lords *Godolphin, Starvel*, and a great many others, retired into the Country upon various Pretences, but really because they were unwilling to own the present Government. All these Peers were, at several times, summoned to attend the House, all Excuses set apart; but nevertheless most of them continued absent.

This Disaffection of so many Peers and Bishops gave no small Uneasiness to the King, and inclined him more and more to favour the Dissenters: Therefore his Majesty being come to the Parliament to pass the *Act*, to supersede the *Habeas Corpus Act*, whereby he was empowered to apprehend and detain such Persons, as he should find just Cause to suspect were conspiring against the Government: He told both Houses, * “ That he was, with all the Expedition he could, filling up the Vacancies that were in Offices and Places of Trust by the late Revolution. That he knew they were sensible, that there was a Necessity of some Law to settle the Oaths, to be taken by all Persons to be admitted to such Places: That he did recommend it to their Care to make a speedy Provision for it; and as he doubted not but they would sufficiently provide against Papists, so he hoped they would leave room for the Admission of all Protestants, that were willing and able to serve, &c.”

This Admission of all Protestants indifferently into Employments, tho' earnestly pressed by the Courtiers, was vigorously opposed by the Church Party, who looked upon it as a means to introduce a Common-wealth, or at least, to let the Dissenters into Places of Trust. It is true, according to the King's Desire, signified in Council, a Bill was presented in the House of Lords on the 14th of *March*, for abrogating the former Oaths of Supremacy and Allegiance, and appointing other Oaths in their stead, which being read a second time, a select Committee of the House was ordered to draw two Clauses; the one to explain the abrogating the said Oaths, and the other to take away the Necessity of receiving the Sacrament, to make a Man capable of having an Office.

This

* See this Speech entire in CHANDLER'S Hist. Anno 1 W. and M. 1689. Page 285.

King's Speech
in favour of Dis-
senters.

Bill brought in
to abrogate the
former Oaths.

This last Clause being drawn up accordingly, and reported to the House, was rejected by a great Majority, on which Occasion the following Protest was entered: Anno 1 Will. III. 1688-9.

1st, Because a hearty Union amongst Protestants is a greater Security to the Church and State than any Test that can be invented. Rejected. Protest thereon.

2dly, Because this Obligation to receive the Sacrament is a Test on Protestants rather than on the Papists.

3dly, Because so long as it is continued, there cannot be that hearty and thorough Union amongst Protestants as has always been wished, and is at this time indispensably necessary.

4thly, Because a greater Caution ought not to be required from such as are admitted into Offices than from the Members of the two Houses of Parliament, who are not obliged to receive the Sacrament to enable them to sit in either House.

North and Grey, Chesterfield, J. Lovelace, Delamer, Grey, Vaughan, Stamsford, P. Wharton.

The Court Party having lost this Point, they made another Attempt in favour of the Dissenters, which was by inserting a Clause in the said Bill, to prevent the receiving the Sacrament of the Lord's Supper, upon any other Account than in Obedience to the holy Institution thereof, and by freeing Persons to be admitted into any Office, or Employment, from the Necessity of receiving the said Sacrament, in such a manner as is appointed by an Act made the 25th of King Charles II. that is, according to the Church of England; provided a Certificate were delivered of the said Persons having received the Sacrament, under the Hands of a Minister, and two other credible Persons: But this Clause being likewise rejected, Leave was given to such Lords as will, to enter their Dissents, and these Lords do enter their Dissents in the Reasons following: Another Clause Rejected.

1st, Because it gives great Part of the Protestant Free Men of England Reason to complain of Inequality and hard Usage, when they are excluded from public Employments by a Law, and also, because it deprives the King and Kingdom of divers Men fit and capable to serve the Public in several Stations, and that for a mere Scruple of Conscience, which can by no means render them suspected, much less disaffected, to the Government. Protest thereon.

2dly, Because his Majesty, as the common and indulgent Father of his People, having expressed an earnest Desire of Liberty for tender Consciences to his Protestant Subjects; and my Lords the Bishops having, divers of them, on several Occasions, professed an Inclination, and owned the Reason-

Amo 1 Will.
III. 1683-9.

ableness of such a Christian Temper; we apprehend, it will raise Suspensions in Mens Minds of something different from the Case of Religion or the Public, or a Design to heal our Breaches, when they find, that, by confining secular Employments to ecclesiastical Conformity, those are shut out from Civil Affairs whose Doctrine and Worship may be tolerated by Authority of Parliament, there being a Bill before us, by Order of the House, to that purpose; especially when, without this exclusive Rigour, the Church is secured in all her Privileges and Preferments, no body being hereby let into them who is not strictly conformable.

3^{dly}, Because to set Marks of Distinction and Humiliation on any sort of Men, who have not render'd themselves justly suspected to the Government, as it is at all times to be avoided by the Makers of just and equitable Laws, so may it be particularly of ill Effect to the reformed Interest at Home and Abroad, in this present Conjuncture, which stands in need of the united Hands and Hearts of all Protestants against the open Attempts and secret Endeavours of a restless Party, and a potent Neighbour, who is more zealous than *Rome* itself to plant Popery in these Kingdoms, and labours, with his utmost Force, to settle his Tyranny upon the Ruins of the Reformation all through *Europe*.

4^{thly}, Because it turns the Edge of a Law (we know not by what Fate) upon Protestants and Friends to the Government, which was intended against Papists, to exclude them from Places of Trust, as Men avowedly dangerous to our Religion and Government; and thus the taking the Sacrament, which was enjoined only as a Means to discover Papists, is now made a distinguishing Duty amongst Protestants, to weaken the whole by casting off a Part of them.

5^{thly}, Because Mysteries of Religion and Divine Worship are of Divine Original, and of a Nature so wholly distant from the secular Affairs of Public Society, that they cannot be applied to those Ends; and therefore the Church, by the Law of the Gospel, as well as common Prudence, ought to take care not to offend either tender Consciences within itself, or give Offence to those without, by mixing their sacred Mysteries with secular Interests.

6^{thly}, Because we cannot see how it can consist with the Law of God, common Equity, or the Right of any free-born Subject, that any one be punished without a Crime: If it be a Crime not to take the Sacrament according to the Usage of the Church of *England*, every one ought to be punished for it, which no body affirms; if it be no Crime, those who are capable, and judged fit for Employments by the King, ought to be punished with a Law of Exclusion, for not doing that which

which is no Crime to forbear: If it be urged still, as an effectual Test to discover and keep out Papists, the taking the Sacrament in those Protestant Congregations, where they are Members and known, will be at least as effectual to that purpose.

Anno 1 Will.
III. 1689.

Oxford, R. Montague, Mordaunt, P. Wharton, J. Lovelace, W. Paget.

The 28th, the Committee of both Houses met at a Conference on the Bill for removing Papists from London; the Result of which see in CHANDLER's Hist. Anno 1 W. & M. 1689, Page 292, 297.

On the 28th likewise, the Earl of *Shrewsbury* acquainted the House of Peers, ' That his Majesty, out of an earnest Desire to deliver his People from the Guilt, Reproaches and Penalties, which many of them might be liable to; and to put an end to all Controversies arising between the Subjects, by reason of any Discord in later Times, and to take away all Distinctions, and Occasions of Discord among them, to the end that they having an entire Confidence in his Majesty, and perfect Union among themselves, might be encouraged in their Duty to his Government, and more fully and securely enjoy the Benefit of it: And his Majesty judging, that the best way to render this his gracious Intention most extensive and effectual, was to pass a free and general Pardon, Indemnity and Oblivion, his Majesty did most earnestly recommend the Consideration thereof to both Houses of Parliament; That with all the Expedition a Matter of that kind would admit, they might prepare a Bill for that Purpose for the royal Assent, with such Exceptions only, as to them should seem necessary, for the Vindication of public Justice, the Safety of their Majesties, and the Settlement and Welfare of the Nation for the future.' At the same time the Earl of *Shrewsbury* desired Leave of the House to bring in a Bill for naturalizing the Prince of *Denmark*, whom his Majesty intended to create a Duke of this Kingdom, and so to bring him to sit in that House, and to have the like Precedency as other Princes had had. Whereupon the Lords ordered the Marquis of *Winchester*, and the Earl of *Bedford*, to attend the King with the Thanks of their House, for his Majesty's gracious Message to them concerning the Bill of Indemnity and free Pardon, and for his Intention of creating on his Royal Highness Prince *George* a Duke of this Realm.

His Majesty's Message by the Earl of *Shrewsbury*, relating to a general Pardon.

Bill to naturalize Prince *George*.

Address of Thanks thereon.

On the 4th of *April*, the House of Lords entered into a Consideration of the Report of the Amendment in the Bill for uniting their Majesties Protestant Subjects; and upon Debate the Question was put, Whether to agree with the Committee in leaving out the Clause about the Indifferency

Bill for uniting Protestant Subjects reported.

Anno 1 Will
III. 1689.



of the Posture at receiving the Sacrament? The Votes were equal, and therefore, according to the antient Rule in the like Case, it was carried in the Negative. The next Day the Lords resumed the Debate of the Report of the said Amendments, particularly of the Clause concerning a Commission to be given out by the King, to Bishops and others of the Clergy: And it being proposed whether the Laity should be added, the Votes were equal on both Sides, so it was likewise carried in the Negative.

Protest thereon. On which Occasion Leave was given for any Lords to enter Dissents; accordingly these Lords following do enter their Dissents in the Reasons ensuing;

1st, Because the Act itself being, as the Preamble sets forth, designed for the Peace of the State, the putting the Clergy into the Commission, with a total Exclusion of the Laity, lays this Humiliation on the Laity, as if the Clergy of the Church of *England* were alone Friends to the Peace of the State, and the Laity less able, or less concerned to provide for it.

2^{dly}, Because the Matters to be considered being barely of human Constitution, *viz.* the Liturgy and Ceremonies of the Church of *England*, which had their Establishment from the King, Lords Spiritual and Temporal, and Commons, assembled in Parliament, there can be no Reason why the Commissioners for altering any thing in the Civil Constitution should consist only of Men of one sort of them, unless it be supposed that human Reason is to be quitted in this Affair, and the Inspiration of spiritual Men to be alone depended on.

3^{dly}, Because, tho', upon *Romish* Principles, the Clergy-men have a Title alone to meddle in Matters of Religion, yet with us they cannot, where the Church is acknowledged and defined to consist of Clergy and Laity; and so those Matters of Religion which fall under human Determination, being properly the Business of the Church, belong equally to both; for in what is of Divine Institution, neither Clergy nor Laity can make any Alteration at all.

4^{thly}, Because the pretending that Differences and Delays may arise by mixing Lay men with Ecclesiastics, to the frustrating the Design of the Commission, is vain and out of doors; unless those that make use of this Pretence suppose the Clergy-part of the Church have distinct Interests or Designs from the Lay-part of the same Church; and this will be a Reason, if good, why one or other of them should quit the House for fear of obstructing the Business of it.

5^{thly},

Content 28, Proxy 1, in all 29. Not Content 27, Proxies 2, in all 29.

5thly, Because the Commission being intended for the Satisfaction of Dissenters, it would be convenient that Laymen of different Ranks, nay, perhaps of different Opinions too, should be mixed in it, the better to find Expedients for that End, rather than Clergymen alone of our Church, who are generally observed to have very much the same way of reasoning and thinking.

6thly, Because it is the most ready way to facilitate the passing the Alterations into a Law, that Lay-Lords and Commons should be joined in the Commission, who may be able to satisfy both Houses of the Reasons upon which they were made, and thereby remove all Fears and Jealousies ill Men may raise against the Clergy, of their endeavouring to keep up, without grounds, a distinct Interest from that of the Laity, whom they so carefully exclude from being joined with them in Consultations of common Concernment, that they will not have those have any Part in the Deliberation, who must have the greatest in determining.

7thly, Because such a restrained Commission lies liable to this great Objection, that it might be made use of to elude repeated Promises and the present general Expectation of Compliance with tender Consciences, when the providing for it is taken out of the ordinary Course of Parliament, to be put into the Hands of those alone who were latest in admitting any need of it, and who may be thought the more unfit to be the sole Composers of our Differences, when they are looked upon by some as Parties.

Lastly, Because, after all, this carries a dangerous Supposition with it, as if the Laity were not a Part of the Church, nor had any Power to meddle in Matters of Religion; a Supposition directly opposite to the Constitution both of Church and State, which will make all Alterations utterly impossible, unless the Clergy alone be allowed to have Power to make Laws in Matters of Religion, since what is established by Law cannot be taken away or changed, but by Consent of Laymen in Parliament, the Clergy themselves having no Authority to meddle in this very Case, in which the Laity are excluded by this Vote, but what they derive from Layhands.

Winchester, Mordaunt, J. Lovelace.

I dissent for this and other Reasons:

Because it is contrary to three Statutes made in the Reign of Henry VIII. and one in Edward VI. which empowers thirty two Commissioners to alter the Canon and Ecclesiastical Laws, &c. whereof sixteen to be of the Laity and sixteen of the Clergy.

Stamford

On

Anno 1 Will.
III. 1689.



On the 9th of *April* the King went to the House of Peers, and gave his royal Assent to an Act for establishing the Coronation Oath, which by Directions from the Court was provided to be administered either by the Archbishop of *Canterbury*, or the Bishop of *London*. The Choice of one of these two Prelates being left to the King, his Majesty, lest he should be denied by the first who still continued discontented, thought fit to pitch upon the Bishop of *London*, who accordingly officiated instead of the Archbishop of *Canterbury*, at their Majesties Coronation; which was on the 11th performed with the usual Magnificence.

King and Queen
crowned.

Not long after their Majesty's Coronation, the Churchmen, who, contrary to the Expectation of the Court, proved more numerous than the Dissenters, being sensible, by many Instances, that the King inclined to favour the latter, agreed upon an † Address, which was approved by the Lords, and presented by both Houses.

A Conference
between the
two Houses.

The same Day there was a ‡ Conference between both Houses, chiefly about an Amendment made by the Lords in the Bill for abrogating the Oaths of Allegiance and Supremacy; by which Amendment the Clergy were excused from taking the Oaths, and to which the Commons disagreed.

Reported by the
Earl of Bridgewater.

After which the House of Lords was adjourned into a Committee to debate and consider the Reasons of the House of Commons; and the House being resumed, the Earl of *Bridgewater* reported, that, after a long Debate in the Committee, this Question, Whether to agree with the House of Commons, was carried in the Negative; Contents 32: Not content 36. Whereupon the Earl of *Macclesfield* and *Monmouth* entered their Dissents for the following Reasons:

1st, Be-

* The Day appointed for their Majesties Coronation drawing near, his Royal Highness Prince George of Denmark, was created Baron of Ockingham, Earl of Kendal, and Duke of Cumberland: The Marquis of Winchester was made Duke of Bolton; the Earl of Danby, Marquis of Carmarthen; Monsieur Bentinck, Baron Cirencester, Viscount Woodstock, and Earl of Portland; Viscount Fauconberg, Earl of Fauconberg; Viscount Mordant, Earl of Monmouth: The Lord Montagu, Viscount Mount-Hermer, and Earl of Montagu; the Lord Churchill, Earl of Marlborough; Henry Sidney, Esq; Baron of Milton, and Viscount Sidney of Sheppey in the County of Kent; Viscount Lumley of Waterford in Ireland, Viscount Lumley of Lumley Castle in the County Palatine of Durham, and Earl of Scarborough; the Viscount Cholmondley of Kellis in Ireland, Baron Cholmondley of Witchmalbanck, alias Namptwich in Cheshire. Marechal de Schomberg (who, with the Earl of Devonshire, had already been elected Knight Companion of the most noble Order of the Garter) was naturaliz'd by Act of Parliament, and soon after created Duke.

† See CHANDLER's Hist. Anno 1 W. and M. 1689. Page 298.

‡ See CHANDLER's Hist. Anno 1 W. and M. 1689. Page 301 302.

1st, Because by the same Reason that any part of the Subjects might be excused from giving Assurances of their Allegiance and Fidelity, all might, and the Government be left precarious.

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Protest thereon.

2^{dly}, Because the Clergy, and especially the Bishops, receiving their Benefices, Dignities and Preferments from the Public, ought to be the first and forwardest, both by their Doctrine and Example, to teach others their Obligations, to be zealous in preserving the Government as well as Religion established by Law.

3^{dly}, Because the Pretence of Scruple and Tenderneſs of Conſcience could have no other Foundation in the preſent Caſe, but the Suppoſition of ſome former Obligation: No one ever ſcrupling to give all manner of Pledges of his Allegiance where he thought it due: Thoſe therefore that ſcrupled ought the more to be preſſed, and the ſooner to be brought to the Teſt, unleſs any one could think it reaſonable that the Government ſhould favour, increaſe and indulge thoſe that would not give the uſual Security that they were not Enemies to it.

4^{thly}, Because, however the King might, that Part of the People who had ſworn Allegiance to him could not have Reaſon to be ſatisfied, when they ſaw another Part of the Nation under looſer Obligations to the Government than they; nothing being ſo apt to raiſe Fears, Jealouſies and Diſorders in a State as unneceſſary Diſtinctions, or any Cauſe of Suſpicion of want of Unanimity or Fidelity amongſt themſelves, in the greateſt Concernments of the Kingdom, eſpecially in the Titles of the Crown, and at ſuch Time as this, when they were entering into War with a potent Enemy, who openly owned and ſupported a contrary Title.

5^{thly}, Because it would diſcourage the Allies, and give them a lower Opinion of our King's Intereſt in his People, or Authority over them, than was for the Advantage of this Kingdom in particular, or the Proteſtant Religion thro' Europe; when they ſhould underſtand that thoſe who were looked on to be the Directors of other Men's Conſciences, could not bring their own to acknowledge him in the firſt and fundamental Act of Obedience; and what muſt they conclude, when they heard the Parliament had diſpenſed with ſuch an exemplary Part of the Nation in a Buſineſs of ſuch Moment?

6^{thly}, Because it might be of ill Conſequence, if the Parliament ſhould ſet any thing like a Mark of Diſaffection on that ſacred Order, by allowing them now a Diſpenſation from taking a very moderate Oath of Allegiance, who, in
a late

Anno 7 Will.
III. 1689.

a late Reign, were too forward and zealous by Addresses, preaching and promoting new Oaths to carry Loyalty and Obedience to Monarchy, to a Pitch unknown to our antient Laws, or former Ages.

7thly, Because there being no other Assurance of any one owning himself subject to any Government, but either acting under it, or swearing to it, it was very necessary, that those who forbear to act, should, of all others, be most strictly required to take the Oaths, that the Public might have that Security of their Allegiance from those that refuse the Oaths.

8thly, Because it was unreasonable, that for a Part of the Clergy, the Nation should be exposed to the Inconveniencies of the want of Justice, and the Danger of Disorders for want of settling the Militia; the renewing of all Commissions being delayed, to the great Prejudice of the Government and the People, till this Act were past, and therefore they did not see why that House should not comply with the Commons in the present Necessity, tho' their Vote should be hard on a part of the Subjects, whereas the utmost could be pretended in this Case, was only contending for an extraordinary Favour, and an unheard-of Allowance to some scrupulous Men.

9thly, Because it was neither what History could parallel, nor any Policy justify, to allow any Part of the People, who claim Protection from the Government, to be excused from giving the common and necessary Assurance of Allegiance and Fidelity to it; and it was hard to think how any one that intended to be faithful to it, should come so near renouncing the Government, as to desire to be dispensed with from being under the same Ties, with other of their Fellow-Subjects.

The King being assured of the Assistance of the Commons, acquainted the Lords, May the 4th, with his Intention speedily to declare War against *France*; whereupon their Lordships unanimously resolved to assist and serve his Majesty therein to their Power.

War declared
with France.

The same Day his Majesty's * Declaration of War against *France* was solemnly proclaim'd, being matterly drawn up by that eminent Civilian, Mr. (afterwards Lord) Somers, and which contained in Substance 'That it having pleased Almighty God to make his Majesty the happy Instrument of rescuing these Nations from great and imminent Dangers, and to place him upon the Throne of these Kingdoms, he thought himself obliged to promote the Welfare of his People, which could never be effectually secured,

2

but

* Note, Bantrey-Bay Sea-Fight was fought May 1; so that War was begun before it was declared.

but by preventing the Miseries that threaten'd them from Abroad: That when he considered the many unjust Methods the *French* King had of late Years taken to gratify his Ambition, that he had not only invaded the Territories of the Emperor, and the Empire, now in Amity with his Majesty, laying waste whole Countries, and destroying the Inhabitants by his Armies, but declared War against his Majesty's Allies, without any Provocation, in manifest violation of the Treaties confirmed by the Guaranty of the Crown of *England*, he could do no less than join with his Allies in opposing the Designs of the *French* King, the Disturber of the Peace, and the common Enemy of the Christian World: That, besides the Obligations his Majesty lay under by Treaties with his Allies, which were a sufficient Justification of him for taking up Arms at this Time, since they had called upon him so to do, the many Injuries done to him and his Subjects, without any Reparation, by the *French* King, were such, that (however, of late Years they were not took notice of, for Reasons well known to the World) nevertheless he would not pass them over without a public and just Resentment of such Outrages. That it was not long since the *French* took Licenses from the Governor of *Newfoundland* to fish in the Seas upon that Coast, and paid a Tribute for such Licenses, as an Acknowledgment of the sole Right of the Crown of *England* to that Island; yet of late the Encroachments of the *French* upon that Island, and his Majesty's Subjects Trade and Fishery, had been more like the Invasions of an Enemy, than becoming Friends, who enjoyed the Advantages of that Trade only by Permission. But that the *French* King should invade his Majesty's *Charibbee* Islands, and possess himself of the Province of *New York*, and of *Hudson's Bay*, in a hostile Manner, detaining some of his Majesty's Subjects under the Hardship of Imprisonment, and causing others to be inhumanly kill'd, were Actions not becoming even an Enemy; and yet that he was so far from declaring himself so, that at that very Time he was negotiating, here in *England*, by his Ministers, a Treaty of Neutrality and good Correspondence in *America*. That the *French* King's countenancing the Seizure of *English* Ships by *French* Privateers, forbidding the Importation of great Part of the Product and Manufacture of this Kingdom, and imposing exorbitant Customs upon the rest, notwithstanding the vast Advantages he and the *French* Nation reap'd by their Commerce with *England*, were sufficient Evidences of his Designs to destroy the Trade, and consequently to ruin the Navigation, upon which the Wealth and Safety of this Nation very much depends.

Anno 1. Will.
III. 1689.

1689.

Z. a.

pende.

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pend. That the Right of the Flag, inherent in the Crown of *England*, had been disputed by the *French King's* Orders, in Violation of his Majesty's Sovereignty of the narrow Seas, which in all Ages had been asserted by his Majesty's Predecessors, and he was resolved to maintain, for the Honour of his Crown and the *English* Nation. But that which most nearly touch'd his Majesty, was the *French King's* unchristian Prosecution of many of his Majesty's *English* Protestant Subjects, for Matters of Religion, contrary to the Law of Nations, and express Treaties, forcing them to abjure their Religion by strange and unusual Cruelties ; and imprisoning some of the Masters and Seamen of *English*-Merchant Ships, and condemning others to the Gallies, upon pretence of having on board either some of his own miserable Protestant Subjects, or their Effects. And lastly, that, as he had for some Years last past endeavour'd, by Insinuations and Promises of Assistance, to overthrow the Government of *England*, so now, by open and violent Methods, and the actual Invasion of *Ireland*, in support of his Majesty's Subjects in Rebellion, he was promoting the utter Extirpation of his Majesty's good and loyal Subjects in that Kingdom. That being therefore thus necessitated to take up Arms, his Majesty thought fit to declare War against the *French King*.'

Proceedings on
the Poll Bill.

To defray the extraordinary Expence of the War, which the King had enter'd into by Advice of his Parliament, the Commons pass'd an additional Act to the late Act for raising Money by a Poll, which being sent up to the Lords for their Concurrence, their Lordships added a Clause to it, for Rating and Taxing the Peers by Commoners of their own naming, appointing a Collector to receive the Rates and Taxes of the Peers, and freeing their Persons from Imprisonment. But after some ineffectual * Conferences the Commons dropt the additional Act, and instead of it made and pass'd a Bill for a Grant to their Majesties of an Aid of Twelve Pence in the Pound for one Year.

Attainders re-
vers'd.

It was necessary, in order to justify the present Settlement, to animadvert upon the irregular Proceedings of the preceding Reigns, more especially those of the corrupt Judges in *Westminster-Hall*. Therefore Bills were brought into the House of Lords to reverse and annul the Attainders of the Lord *Russel*, *Alicia Lisle*, and *Algernon Sidney*, which, being recommended from the King, pass'd both Houses with great Unanimity.

Case of the Earl
of Devonshire.

A Committee of Privileges being appointed in the House of Peers, and having examined the Case of the Earl of *Devonshire*, their Lordships reported their Opinion, which was, That the Proceedings against the said Earl in the

C O U R T

* See CHANDLER's Hist. Anno 1 Wm. and Mary, I 84. p. 14. 320.

Court of King's-Bench in *Easter-Term*, in the Third Year of King *James II.* upon an Information of an Assault upon Mr. *Culpeper*, wherein his Lordship's Plea of Privilege of Parliament was over ruled, and he was fin'd 30000 *l.* and thereupon committed to the King's-Bench in Execution, was a great Violation of the Privileges of the Peers of *England*: And likewise, that those Judges, who sat in the said Court, when the said Judgments were given, and the said Commitment made, should be required to attend at the Bar of this House, to answer for the great Offence, which they committed thereby.

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Hereupon the Lords order'd that Sir *Robert Wright*, who, upon the withdrawing of King *James*, had been committed Prisoner in *Newgate*, Sir *Richard Holloway*, Mr. *Bradbury*, Mr. *Petyt*, and Mr. Justice *Powell*, should attend their House on the 6th of *May* following, which they did accordingly. The Deputy of the Clerk of the Crown-Office in the King's-Bench having read the Record relating to the Earl of *Devonshire's* Case, and the Judges being ask'd what they had to say for themselves in this Business, Mr. Justice *Powel* said, That it was his great Misfortune that he was misguided by some Books, which he look'd on as Authorities, and which he found, by their Lordships Judgments were not so, and he humbly begg'd their Lordships and the Earl of *Devonshire's* Pardon. That as to the Fine, he thought it exorbitant, and look'd upon 3000 *l.* as Fine enough; and that his Silence in that Business was his greatest Fault, for which he also begg'd Pardon. Sir *Robert Wright* alledg'd, That as to the Breach of Privileges they were misguided by Precedents; as to the Fine, (which is usually set according to the Quality and Estate of the Person fin'd) it came from the puny Judge 30000 *l.* and so to him last, according to the Course of the Court; and if he was mistaken he begg'd Pardon, for he never had the least Disrespect to the Earl of *Devonshire*. Then Sir *Richard Holloway* said, That he, as second Judge, pronounced the Fine, 30000 *l.* which was set *Nemine Contradicente*; and if a lesser Fine had been propos'd he should have accepted it; and begged my Lord *Devonshire's* Pardon, and submitted all to their Lordships. After that, the Lords asking them, whether they had no Discourse together before, concerning the said Fine, Sir *Robert Wright* affirmed, it was never mention'd but in Court; and Sir *Richard Holloway* also declar'd, He had no Direction in it, either from King *James* or Chancellor *Jefferies*; whereupon Mr. Justice *Powel* replied, Sir *Richard Holloway* might remember there was a Discourse of the Fine five or six Days before at the Lord Chancellor's, where Sir *Robert Wright*, Sir *Richard Holloway*, Sir *Richard Allibone* and himself were. This Sir

Judges examin'd
thereon.

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Richard

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Richard Holloway pretended he did not remember; and Sir *Robert Wright* denied, that they were there purposely about the said Fine. These two being withdrawn, Mr. Justice *Powell* was ask'd, What Discourse they had at the Lord Chancellor's? To which he answer'd, That the Chancellor first propos'd 20000 *l.* and afterwards said, it would be better if 30000 *l.* and then the King might abate 10000 *l.* And that to this he declar'd his Dislike to the other Judges, tho' not before the Lord Chancellor. After this Examination, Notice having been given to the King's Council, to the end if they had any thing to offer, *Whether a Peer of this Realm might by Law be committed in Execution for a Fine?* The said Council did accordingly give their Attendance, but offered nothing therein; wherefore, upon full Consideration of the several Cases and Precedents, wherein the Privileges of the Peers have been concern'd, the Lords spiritual and temporal did declare and adjudge, That the Court of King's-Bench in over-ruling the Earl of *Downshire's* Plea of Privilege of Parliament, and forcing him to plead over in chief, it being within the usual time of Privilege, did thereby commit a manifest Breach of Privilege; and that the Fine of 30000 *l.* impos'd by the Court of King's-Bench upon the said Earl, was excessive and exorbitant, and against *Magna Charta*, the common Right of the Subject, and the Law of the Land, and that no Peer of this Realm, at any time, ought to be committed for Non-Payment of a Fine to the King.

Decision,

Dr. Oate's remarkable Case.

The famous *Titus Oates* took this favourable Opportunity to justify his Veracity in his Informations relating to the Popish Plot; and stirr'd so much about *Westminster* and *Whitehall*, that Mr. Justice *Dalben* having brought into the House of Lords three Writs of Error between him and King *Charles II.* and the Duke of *York*, to which *Oates's* Council declared their Exceptions in writing to the Lord Chief Justice, their Lordships ordered, that Sir *Richard Holloway* and Sir *Francis Withens* should attend their House, and give their Reasons and Grounds for their Judgment against *Titus Oates* in the Court of *King's-Bench*. Whilst this Business was depending, *Oates* printed a Paper which he ownd before the House of Lords, and wherein he alledged, ' That in the Year 1678, he discovered a horrid popish Conspiracy for the Destruction of the late King *Charles II.* his present Majesty, then Prince of *Orange*, and the Protestant Religion, within these Kingdoms, and proved it so fully, that several Parliaments and Courts of Justice, before whom he gave his Testimony, declared their Belief of it by public Votes, and the Condemnation of several of the Conspirators, accused not only by him, but by several other Witnesses. That the House

House of Lords being sensible of the great Service of *Oates*, gave him their Thanks in a most public manner, and addressed to King *Charles II.* to grant his Royal Protection to the said *Oates*, and give him a Subsistence till the Parliament considered of a Reward suitable to his great and public Service to the King and Kingdom. That the said *Oates* discovered the traiterous Conspiracy which *Coleman* held with *La Chaise*, Confessor to the French King, which gave both Houses of Parliament full Satisfaction of the popish Plot; and other Letters were produced by a Person of Quality, by which the Government was satisfied of the underhand Dealings of a great Minister of State at that Time, in order to procure a Sum of Money to put off the Parliament, all which did still justify the said *Oates*, and did verify the Truth of his Discovery. That the Duke of *York* having a great Influence upon King *Charles II.* as also several others of the popish Party, did prevail upon him to suffer the said *Oates* to be indicted of Perjury in two several Indictments, six or seven Years after he had given his Testimony concerning the popish Plot, and brought the same to Trial in 1685, in the Reign of King *James II.* with an Addition of some other Witnesses, but all Papists, and brought up at *St. Omers*, excepting one, who had likewise his Education at *St. Omers*, but was turned Protestant, as he pretended, and was made a Minister by the Bishop of *St. Asaph*. That the Lord Chief Justice *Jesseries* brow-beating *Oates's* Witnesses, as several Peers could testify, and appearing so much *Oates's* Enemy, the King's Council perverting the Testimony, and no Council daring to appear for *Oates*, he was found guilty of Perjury. That the aforesaid Indictments he had removed into the Lords House by Writs of Error, and if their Lordships would be pleased to examine into the Merits of the Cause, he would produce three Witnesses yet alive, that would justify his being in Town at the Time that the *St. Omers* Witnesses swore him out of Town; that he could produce Mr. *Jennison*, who would prove that *Ireland* was in Town in August 1678, which contradicted the *Staffordshire* Witnesses. That, the Papists themselves having justified *Oates's* Testimony, by their open and avowed Violation of our Laws, Liberties and Religion, and executing these Things in the Reign of the late King, which he did discover them to be contriving in the Reign of King *Charles II.* which was the Substance of his Testimony, he hoped the Reputation of *St. Omers* Witnesses, who were bribed with Places and Offices in the Army, and Sums of Money, should not prevail with the House of Lords from setting aside the Judgments brought before their Lordships. All which was humbly offered to the Consideration of the Lords and Commons.

After

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Question carry'd
in the Affirma-
tive.

After a long Debate, the Question propounded was, Whether this Paper, owned by *Titus Oates*, did contain Matter tending to the Breach of the Privilege of this House? Which being carried in the Affirmative, the Duke of *Bolton*, the Earls of *Macclesfield* and *Stamford*, and the Lord *Cornwallis*, *Wharton* and *Sidney*, dissented from, and protested against the said Vote;

Protest thereon.

1st, Because the Matter resolved to be a Breach of the Privilege of that House, was not plainly and distinctly expressed in the said Vote; nor did it appear therein what particular Privilege of the House of Peers was broken by any Matter contained in that Paper; and therefore this Vote could be of no Use to support any Privilege of that House, or prevent the Breach of any of them for the future;

2^{dly}, Because the said Vote might tend to the Disunion of both Houses, which might prove of dangerous Consequence to the King and Kingdom, they apprehending the whole Drift of the said Paper to be, to have Relief in a legislative way, and accordingly the Case and Prayer was directed to both Houses.

3^{dly}, Because that Day being appointed by Order of that House, to have the Opinion of the Judges on the Writ of Error in the Case of the said *Oates*, and the said Judges attending accordingly, they did think it proper, that the House would have heard their Opinion; and thereupon have (according to usual Course of Judicature in such Cases) proceeded to Sentence before the taking into Consideration the said Paper, introduced but that Morning into the House.

Oates committed.

Yet, notwithstanding this Protestation, *Oates* was immediately, by their Lordships Order, committed to the Prison of the *Kings-Bench*.

Petitions the
Lords.

He had been but two Days in Prison when he presented a Petition to the Lords, setting forth, ' That he ever was so far from saying or doing any thing willingly, which the least interfered with the Rights and Privileges of that honourable House, that if any thing was inserted in his Case, which offended their Lordships, it proceeded from Ignorance or Inadvertency, and humbly begged their Lordships Pardon.' Upon this *Oates* was brought to the Bar to make his Submission to the House of Lords; but refusing to strike out the Title he had assumed in his Petition, of *Doctor of Divinity*, at which there were Exceptions taken, he was immediately remanded to the Custody of the *Marshalsea* of the *Kings-Bench*.

Opinion of the
Judges.

On the 31st of May the House of Lords having heard the Opinion of all the Judges concerning the Illegality of the two Judgments against *Titus Oates*, upon the point of Perjury, for

for which he had brought his Writs of Error, the House had this main Question propos'd; Whether to reverse the said two Judgments? Which being resolv'd in the Negative, Leave was given to such Lords as will to enter their Dissents; and accordingly these Lords following do enter their Dissents in these Reasons following:

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The Judgments
against him to
stand unrever-
sed.

1st, For that the *King's-Bench*, being a temporal Court, made it Part of the Judgment, that *Titus Oates*, being a Clerk, should, for his said Penjuries, be divested of his canonical and priestly Habit, and to continue divested all his Life; which is a Matter wholly out of their Power, belonging to the Ecclesiastical Courts only.

2^{dly}, For that the said Judgments are barbarous, inhuman, and unchristian; and there is no Precedent to warrant the Punishments of whipping and committing to Prison for Life, for the Crime of Perjury; which yet were but Part of the Punishments inflicted upon him.

3^{dly}, For that the particular Matters, upon which the Indictments were found, were the Points objected against *Mr. Titus Oates's* Testimony, in several of the Trials, in which he was allowed to be a good and credible Witness, tho' testified against him by most of the same Persons who witnessed against him upon these Indictments.

4^{thly}, For that this will be an Encouragement and Allowance for giving the like cruel, barbarous and illegal Judgments hereafter, unless this Judgment be reversed.

5^{thly}, Because *Sir John Holt*, *Sir Henry Pollexfen*, the two Chief Justices, and *Sir Robert Atkins*, the Chief Baron, with six Judges more (being all that were then present) for these and many other Reasons, did, before us, solemnly deliver their Opinions, and unanimously declare that the said Judgments were contrary to Law and antient Practice; and therefore erroneous, and ought to be reversed.

6^{thly}, Because it is contrary to the Declaration, on the 12th of *February* last, which was ordered by the Lords spiritual and temporal, and Commons then assembled, and by their Declaration engrossed in Parchment, and enrolled among the Records of Parliament, and recorded in Chancery, whereby it doth appear, that excessive Bail ought not to be required, nor excessive Fines imposed, nor cruel nor unusual Punishments afflicted.

Bolton, Oxford, Grey, P. Wharton, Herbert, Maclesfield, Bathe, Cornwallis, J. Bridgewater, Vaughan, Stamford, Newport, R. Eure, Bolingbroke.

This Protestation worked so powerfully in the House of Lords, that the following Day, their Lordships, after hearing

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The said Judgments revers'd.

A Proviso that
Oates shall not
be received as a
Witness.

Agreed to.

ing Council at the Bar, to argue the Errors assign'd by *Oates*, did order and adjudge that the Judgment against the said *Oates* should be revers'd; and Leave was given for the bringing in a Bill, for the securing Persons hereafter from the Prejudice which might come from his Testimony. But upon the second reading of this Bill in the Upper House (which had already pass'd the Lower) there were several Amendments made, and a *Proviso* inserted, whereby it was declar'd, *That, until the Matters for which Titus Oates was committed for Perjury were heard and determined in Parliament, the said Oates should not be receiv'd in any Court or Cause whatsoever to be a Witness.*

All which being reported by the Lord President (*Danby*) July 12, the Question was put, Whether to agree to this Amendment? It was resolv'd in the Affirmative.

Contents 31, Proxies 9; in all 40. Not Contents 27, Proxies 5; in all 32.

Thirty fourth Line, after (*King's Bench*) leave out these Words (and the Judgments given on the said Writs of Error.)

The Question was put, Whether to agree to this Amendment? It was resolv'd in the Affirmative?

Thirty-seventh Line, after the Word (Judgments) add (in the Court of *King's Bench*.)

The Question was put, Whether to agree to this Amendment? It was resolv'd in the Affirmative.

Thirty-seventh Line, after the Word (defaced) leave out (any thing to the contrary thereof in any wise notwithstanding) and read (and it is hereby further enacted by the Authority aforesaid, that it shall not be lawful at any Time hereafter to inflict the like excessive Punishments again on any Person whatsoever.)

The Question was put, Whether to agree to this Amendment? It was resolv'd in the Affirmative.

Then the following Proviso was read.

Provided always, and be it hereby enacted and declared by the Authority aforesaid, that, until the said Matters for which the said *Titus Oates* was convicted, as aforesaid, for Perjury, be heard and determined in Parliament, the said *Titus Oates* shall not be received in any Court, Matter, or Cause whatsoever, to be a Witness, or give any Evidence; any thing in this Act in any wise contained to the contrary notwithstanding.

The Question was put, Whether to agree to this Proviso? It was resolv'd in the Affirmative.

Protest thereon. Leave was given to any Lords to enter their Dissents; and these Lords following do enter their Dissents to the several foregoing Questions for these Reason:

1st, Because

1st, Because we are of Opinion, that the Judgments given in the Court of King's-Bench against *Titus Oates* are altogether illegal and cruel, and not capable of being qualified in Justice or Law, by the Words '(unprecedented and so cruel and illegal, that the Practice thereof ought to be prevented for the time to come) but ought plainly to be declared positively against Law, Justice, and the undoubted Right of the Subject.

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Protest thereon.

2^{dly}, Because we are of Opinion, that no Merit or Demerit of any Person appealing to the House of Lords, or bringing thither a Writ of Error, ought to have any weight with the Lords in giving Judgment; and therefore no Reason why the said Judgments ought not to be reversed by the Legislative Power, since the supreme Court of Judicature (the Lords in Parliament) is the utmost Resort any Person can have for Justice, except the Legislative Power.

3^{dly}, Because we are of Opinion, that barely saying (it shall not be lawful at any Time hereafter to inflict the like excessive Punishments again) is not strong enough to deter a corrupt or partial Judge from practising the same, because it is without a Penalty upon such Judge; and barely the Transgression of Law not made penal, can amount to no more for Punishment than a moderate Fine; and there is no doubt but all Judges will be hereafter cautious of setting great Fines, since of late the Subject, in that Point, has been grievously oppressed, as does appear by several exorbitant Fines annulled in this present Parliament.

We also enter our Dissent to the Proviso for these Reasons :

1st, Because no Man ought, by the Law of *England*, to be punished unheard; though the Parliament has Power in all Things possible in its Legislative Capacity, yet by all Rules of Law and Justice, no Man ought to be oppressed merely arbitrarily; and in this Case it seems to us to be so, for the other Part of the Bill reverses two illegal and unjust Judgments against *Titus Oates* in the Court of King's-Bench, affirmed upon Writs of Error brought to reverse the same; and this Proviso, without hearing him in his Defence, enacts, *Titus Oates* to be a Man incapable of being a Witness, which, we conceive, is more Infamy than being a Slave.

2^{dly}, The Proviso, as it is penn'd, that it may have a Shew of Justice, seems to give him, the said *Titus Oates*, a Liberty to clear himself, but in reality it is impossible for him so to do; for, if it be meant, that the Matter for which the said *Titus Oates* was convicted of Perjury must be heard and determined in Parliament in a Legislative way, there is no need of this Proviso; but if it be meant that the said Matters for which he was convicted of Perjury must be heard and deter-

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determined:

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mined by the House of Lords in Parliament, then (besides that it may seem to cast a Reflection upon the Proceeding of the House of Lords in affirming the Judgments given in the *Kings-Bench* against him, without hearing him) there will be two insuperable Difficulties; one is, that by the Rules and Practice of the House of Lords, as a Court of Judicature, the Lords cannot call for the Matters and Evidence concerning the two Verdicts, nor can *Titus Oates* bring that before the Lords in Judicature; the other is in case the Lords in Judicature shall call for the same, or *Titus Oates* should bring them before the Lords in Judicature; the other is in Case the Lords in Judicature, and the Lords proceed thereon to give Judgment, it is by us conceived, that it would be an original Cause, and therefore not to be proceeded upon.

3dly, If *Titus Oates* cannot acquit himself of Perjury, as this Proviso seems to give him Liberty to do, in the House of Lords, he can never bring it into any inferior Court.

4thly, Last of all, we conceive, that the refusing to condemn the Verdicts brought against *Titus Oates* in the *King's-Bench* does condemn, at the same time, the Credit of the popish Plot, which was affirmed by so many Witnesses in several Parliaments, and caused so many Addresses to the King concerning it, since the first Discovery of it was upon this very Evidence, for which he was convicted (tho' by a pack'd corrupt Jury) by the highest Oppression, and by a former Jury in the same Case acquitted of Perjury.

*Bedford, Charles de Berkeley, Mablesfield, Paget, Vaughan, * Montagu, Suffex, Cornwallis, Newport, Stamford, Suffolk.*

Against the Amendment.

Line the 34th, after (the *Kings-Bench*) leave out (and the Judgments on the said Writs of Error) 37th Line, after the Word (Judgments) add (in the Court of *Kings-Bench*.)

Because it is altogether unintelligible to us, how we can reverse the Judgments in the *King's-Bench* as erroneous and illegal, and yet so industriously passed by the Judgments given in this House, that affirm those illegal and erroneous Judgments, by rejecting that Clause in the Bill brought up from the House of Commons that reverses that Judgment also.

Against the Proviso.

Because the Title and Intention of the Bill is to reverse the Judgments against *Titus Oates*, but this Proviso makes it firmer and heavier than ever, as much as an Act of Parliament is of more Weight than the Sentence of any judicial Court,

* Ralph, Lord Montagu of Boughton, created Viscount Mounthermer, and Earl of Montagu, April the 9th, 1689, by King William.

Court, and the Infamy of Perjury a greater Punishment than any thing barely corporal.

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Because, we think, we cannot justify to the World, or our own Consciences, such a Compliance for the Judgments of profligate Wretches, set up for Judges in *Westminster-Hall*, as that in the same Act, wherein we are forced (upon undeniable Reasons, manifest to the whole World) to annul their Judgments as illegal and erroneous, we should yet retain and fix upon him, who hath already suffered by it, undue and unheard-of Punishments, the severest Part of a confessed illegal Sentence.

Because we cannot consent that this House, which hath been always looked on as the Seat of Justice and Honour, should come under the Obloquy of a Place, where Men are condemned first and tried afterwards, which we cannot see how to avoid, if, according to this Proviso, we lay Dr. *Oates* presently under the Condemnation of Perjury, until the Matters of that Perjury shall be heard and determined hereafter.

Because, supposing him guilty, we being, by no Forms of Justice, obliged to condemn him, we think it Prudence not to give an Occasion to be thought apprehensive of his Testimony, by taking this new and unheard-of way of depriving him of it.

The Case of any Man living, the Condemnation of Perjury ought not to be laid on *Titus Oates*, before a fair and full Hearing, for that it was so much the Labour of the Enemies of our Religion and Liberties (who in this Matter knew well what they did) to advance their Designs by invalidating his Testimony, the Credit of which was in vain attempted by solemn Trial, till the Irregularities of the last Reign, and the way to corrupt Judges and Juries to their Purposes; we therefore fear, we may be accused of out-doing the whipping Precedents of *Westminster-Hall*, in consenting to condemn without Hearing or Trial.

Because we cannot consent, that this Hardship be put on his Majesty, either to reject a Bill offered to him by both Houses, which hitherto he hath not done; or else, in a most solemn way, to lay a Man under the Condemnation of the most detestable Crime, without any Knowledge of it; an Injustice no body can advise him to, to advance his own Interest, much less for the promoting that of his Enemies, who always did and do think themselves concerned to discredit the Opinion of the popish Plot, to which this seems to have a great Tendency.

Because we cannot consent to fix on any one the Condemnation of Perjury, by Act of Parliament, upon bare Surmise before a Hearing, were it for no other Reason but that those

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who have Proofs may, by an orderly Courſe of Law, convict him; to condemn *Oates* of Perjury, until it ſhall be heard and determined in Parliament, is to condemn him for ever and unheard; for how, after this, can it come judicially before us, there lies no Indictment in the Houſe of Lords, nor Writ of Error, when the Record is vacated; ſo that it is utterly impoſſible for *Titus Oates* to receive any Benefit by a Remedy ſeemingly provided for him by Act of Parliament.

Montagu, Suffolk, Monmouth, Maccleſfield, Oxford, Herbert.

Conference be-
tween the two
Houſes on
Oates's Affair.

The Bill, with the Amendments and Proviſo, having been read a third time, paſt, and ſent to the Commons, that Houſe diſagreed to the ſaid Amendments, particularly to the firſt; (*viz. To leave out, the ſaid Verdicts brought in againſt the ſaid Oates were corrupt*) ' Becauſe the Points in which the Perjuries were aſſign'd in the Informations were ſolemnly examin'd and try'd at former Trials, wherein the Proceedings were regular, and when things were freſh in Memory; and at thoſe Trials the Teſtimony of *Oates* was ſupported by concurrent Evidence, to the full Satisfaction of the Courts and Juries: Becauſe it appear'd, by unqueſtionable Evidence, that ſeveral thouſand Pounds were beſtow'd and expended upon the Jurors and Witneſſes about the Trials for the ſuppoſ'd Perjuries, which Sums were much greater than could be expended in a fair and uncorrupt Proſecution. Becauſe the Juries who paſſ'd upon the Trials were return'd by Officers unduly choſen, after the unjuſt Seizure of the Liberties of the City of *London*, and in the Reign of a Popiſh King, and at ſuch a time when neither Council nor Witneſſes durſt appear for the ſaid *Titus Oates*, when Perjury was countenanced by ſuborning Witneſſes; by Judges not daring to take notice how Witneſſes in later Trials had contradicted what they had ſworn in former Trials, but ſuffer'd by Mr. *Corniſh*, in particular, to be attainted upon ſuch contrary Evidence, tho' the ſaid contrary Evidence had been twice printed before by Authority.' The Lords inſiſted on their Amendments, chiefly upon the following Reaſons, which were reported by the Earl of *Rocheſter*. *Fiſt*, Becauſe new Matter might have ariſen between the firſt and the ſubſequent Trials; but nothing of this now lay before them, nor had the Evidence, upon which the Verdicts were given, been yet examin'd. *2dly*, Becauſe there did not appear to the Lords any Evidence, much leſs any that was unqueſtionable, of any ſuch Sums of Money, expended upon the Jurors and Witneſſes, as might render the Proſecution unfair or corrupt. And *3dly*, Becauſe the reverſing ſo many Judgments as were given in a courſe of many Years, was attended with very

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ill Consequences. As for the Proviso, the Lords alledg'd, Anno 1 Will.
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 ' That they did not lay any new Censure on *Titus Oates*, but left him in the State in which they found him, as to his being a Witness, till the Particulars were examin'd; and that they did not intend to bring in question the Popish Plot, but thought it both for the Honour of the Nation and Religion, that the Validity of *Titus Oates's* Evidence, for the future, should not be allow'd, nor a Conviction pass in the Forms of Law, be set aside till the whole Matter of Fact were duly examin'd.'

On the 29th of *July* there was a free Conference, which Free Conference
 was begun by the Managers of the House of Commons, who said, ' That they look'd upon that Bill not to be the Business of a particular Man, but of every Subject in *England*, with regard to his Person and Estate, and that the Honour of Parliaments, public Justice, and the Protestant Religion, were concern'd in it, as well as the Integrity of King *Charles II.* and his Privy Council; and that the Lords Amendments, if agreed to, would make that Bill of great Prejudice to the Subject, instead of answering the Ends which were intended by the Commons. That the Lords Amendments were of two Sorts, some relating to the Judgments, and others to the Verdicts: That as to the first, the Commons had hop'd, that, after the Declaration presented to their Majesties, upon accepting the Crown, wherein their Lordships had join'd with the Commons, in complaining of the cruel and illegal Punishments of the late Reign, and after this Declaration had been so lately renew'd in that Part of the Bill of Rights, which the Lords had agreed to, they should not have seen Judgments of this Nature affirm'd, and been put under a necessity of sending up a Bill for reversing them. That these Declarations would not only be useless, but of pernicious Consequence to the People, if, so soon after, such Judgments as these stood affirm'd, and were not taken to be cruel and illegal, within the Meaning of these Declarations: That the Commons had a particular Regard to these Judgments, amongst others, when that Declaration was made; and must insist upon it that they are erroneous, cruel, illegal, and of ill Example to future Ages, which was the Character fix'd upon them by the Bill sent up to the Lords. That the Lords having gone so far as to agree the Judgments to be erroneous, it could not be denied that they were illegal, for that which makes a Judgment so, is, that it is against Law. That it was of ill Example for a temporal Court to divest a Clerk of his canonical Habit: That it was both of ill Example, illegal and cruel, that a Judgment of perpetual Imprisonment should be given in a Case where
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there is no express Law to warrant it : That an *Englishman* should be expos'd upon a Pillory so many times a Year, during his Life, and that a Freeman should be whipp'd in such a barbarous a manner, as in probability would determine in Death. That there were many Precedents made that did not concern this Man only, or this Offence, but the Judgments against *Oates* were Judgments against every *English* Subject, ecclesiastical as well as temporal, the Lords as well as Commons. That this was avow'd when these Judgments were given by the then Lord Chief Justice of the *King's-Bench*, who declar'd ' *That all the Judges had met and unanimously agreed, that where the Subjects were prosecuted at Common Law for a Misdemeanor, it was in the Discretion of the Court to inflict what Punishment they pleas'd, not extending to Life or Member.* That as soon as they had set up this Precedence to a discretionary Power, it was observable how they put it in practice in other Cases and for other Offences, by inflicting such cruel and ignominious Punishments as would be agreed to be far worse than Death itself, to any Man who has the Sense of Honour or Shame. That the Lords additional Clause was so far from declaring these Judgments illegal, that it might plainly import an Allowance of them ; nor did it go so far as to provide a Remedy for the future, for it did not only enact, *That such excessive Punishments ought not to be inflicted for the future*, which seem'd rather to refer to the Severity of the Execution, than to the Judgment itself, That it was agreed by the Lords at the former Conference, that the Judgments of Affirmance, given by the Lords, could not, nor ought not to stand when the Judgments of the *King's Bench* were revers'd, and therefore the Commons thought themselves concerned to insist, that the Act might speak plain, and that it might be understood by all who had heard the Judgment against *Oates* were once affirm'd by the Lords that those Judgments of Affirmation might subsist no longer. As to the Lords Amendments which related to the Verdicts, it was urg'd by the Managers for the Commons, That so severe and extraordinary a thing as making a Man infamous, and taking away his Testimony by Act of Parliament, ought not to be done but upon the greatest Consideration, especially in such a Case as this, where the Honour of parliamentary Proceedings, and of the *English* Justice were more concerned than *Oates*. That the Business of the popish Plot, had great Examination in several Parliaments, and in several Courts of Justice, in all which *Oates* stood a good Witness ; and tho' his Testimony was confirmed by other Witnesses and by Letters, yet the declaring him to be an incompetent Witness, by Act of Parliament, would be interpreted a great Step.

Step towards a disavowing the popish Plot; it being certain that what had been done by the Lords in affirming the Judgment against him, had already such an Interpretation beyond Sea. That by Law when the Judgment is erroneous (which was confess'd in this Case) the whole Record is to be annulled, and therefore to let so much of the Record stand as related to the Conviction, which was in effect done by the Lords second Clause, was to do an extraordinary thing, and plainly to pass a new Censure upon *Oates*, and to make that which was singly the Opinion of the Jury before, to be the Act of the whole Parliament. That tho' it be confessed, that the present Proceeding was according to the legislative way, and therefore there was no Necessity of strictly pursuing the Forms of the Courts of Justice, yet when the Commons reflected how they came to be driven to use this extraordinary Course for reversing these Judgments, they could not strictly satisfy themselves, that it was just to take from the Party an Advantage, which he ought to have had in the ordinary Matters of Law, without stronger Reasons than they had in this Case. That they observed the Perjuries assigned against *Oates* were not in Substance of his Evidence, but in the Circumstance of Time, in which there might be an innocent Mistake without contracting the Guilt of wilful Perjury, and that a colourable Counter-Evidence might be easily set up when the thing was under the Management of Jesuits, whose whole Order was wounded by *Oates's* Evidence, and who are not scrupulous of using indirect Acts to preserve their Credit and Interest. That, after all Endeavours to the contrary, *Oates* stood upright, his Testimony unshaken, till a Papist was upon the Throne, till irregular Sheriffs were made, new Freeholders Books (consisting only of Persons fit to serve the present Turns) formed; *Graham* and *Burton*, by Experience, become perfect in the Mystery of managing Juries; and till neither Council nor Witnesses could with Safety appear for *Oates*. That Violation of Law, Partiality and Corruption were the Character of the Times, and were visible in every thing that moved towards the attaining these Verdicts. That if nothing else but a direct Proof of Money given make a corrupt Verdict, it would be very difficult to shew that ever a corrupt Verdict was given; nay, that it is possible a Jury might have taken Money, and yet give a true and honest Verdict. That any Partiality in the Jury, let either Malice or Affection be the Motive, makes the Verdict corrupt. That if the Juror does but declare his Thoughts before the Trial it is a good Cause of Challenge; that so nice is the Law in requiring that Jurors be indifferent, that if any one of the Jury be returned at the Denomination of the Party,

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or to the end that he should be more favourable to the one side than the other, the whole Array ought to be quashed. That it appeared to the Commons, that so great a Price was set on the destroying *Oates's* Credit, that the Prosecution was notoriously carried on by express Directions and Commands from the Court, that great Sums had been distributed in order to it, and fit Instruments employed in promoting and instructing Witnesses to swear against *Oates* in the same Points which had been fully examined before. That, under colour of paying their Charges, considerable Sums of Money had been given to Witnesses; that to make sure of them before-hand, they were requir'd to make Affidavits beyond Sea, of what they were to swear at the Trial, which were drawn so, that it was prov'd to the House of Commons, that one of the intended Witnesses refused to swear again what they had thought fit to set down for him in his Affidavit. That Clubs were kept at Taverns, where Juries were named in these *State Trials* (as they were call'd) where *Burton* and *Graham* were assisting to give their Directions. That besides, there lay an Exception of Partiality, the Witnesses being all of them Novices at *St. Omers*, a College of Jesuits, against which Colleges *Oates* had given particular Testimony. Besides, as Jesuits, they could not esteem it of little Consequence to their Order to discredit the Evidence of the Popish Plot, and disparage those Parliaments who had prosecuted it with so much Vigour; and how far the Principles of the Jesuits would allow them to instruct their Novices, that an Oath administered by Heretic Magistrates was to be little regarded, might deserve to be thought upon. That in this Case no less than nine of the most considerable Council were employ'd against *Oates*, and had frequent Meetings, and great Fees, which seem'd extraordinary when nothing was in question, but a Point of Time: That great Treats were given several times to the Jurors, which the Law does not allow; and that above 3000 *l.* was expended about convicting *Oates*, which was too great a Sum to be fairly spent upon occasion of two Trials by *London* Juries. That the Commons saw no Cause to add any Authority or Reputation to such Verdicts, upon a bare possibility, that new Matters might arise between the former Trials, and those for the Perjuries, since it was at least alike possible that no such new Matter did arise. For on the one side, it was own'd by the Lords, that they had examin'd the Fact; and on the other side, the Indictments shew'd, that the Points in which the Perjuries were assign'd were not new Matters, but the same which had been drawn in Question in the former Trials, and upon the Credit of the same Witnesses; so that the

the Presumption lay stronger on the Commons side. That Anno 1. Will. as to what was mention'd by the Lords at the last Conference, III. 1689. that the Corruption of the Verdicts did not appear to them, that was not the Fault of the Commons, the Lords having the same Means of being inform'd as the Commons had, if they had thought fit to use them. That it was agreed with the Lords that there was a Respect to be had to legal Proceedings, but then that Respect ought to be equal, and the Examination of the same Faults in the several Trials in King *Charles's* Reign did deserve, at least, as much Regard as the Examination of the same Facts in King *James's* Time, especially when the former Trials stood confirm'd by the concurring Opinions of King *Charles* himself, and successive Parliaments: Besides, it was scarce credible, that the Judges who could be guilty of giving an extravagant Judgment, could be indifferent in their Directions at the Trial. That the Lords second Clause did make it impossible for *Oates* to clear his Innocence, (tho' that was said to be the End for which it was intended) for, if the Conviction stood, there was no legal Course for hearing and determining the Matters for which he was convicted. That were it suppos'd the Lords should think fit to give themselves the Trouble to enter into the Examination of the whole Matter, and could find out a Means of doing it; yet, if the Lords Proviso were agreed to, *Oates* could have no manner of Advantage, tho' his Innocency was fully clear'd, by any Judgment the Lords could give, but he must still remain an infamous Person, unless a new Law was made to restore him. That by pursuing the known Methods at Law, and entirely reversing the Judgments by Act of Parliament now, as it ought to have been done before by the Lords in their judicial Capacity, *Oates* might be again indicted and brought to an indifferent Trial, according to the Success of which his Credit would stand or fall; and that was the only regular Way which remain'd to have these Matters re-examin'd.

The Earls of *Rochester*, *Nottingham* and *Berkley*, and the Bishops of *London* and *Salisbury* (who were the Managers for the Lords who spoke at this Conference) alledg'd, ' That if it was proved to them that the Verdicts were corrupt, it would incline them to agree with the Commons, that being the Issue between the two Houses; if that was not made out, the Lords did not think fit that *Oates* should take Advantage of an erroneous Judgment, to destroy the Verdict. That to make the Verdicts corrupt there must be some Corruptions made out between the time of the former Trials, and the time of the subsequent Trials for the Perjuries. That they agreed there might be other Methods of Corruption

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tion than by Money, but that it was hard to assign them. That the Persons who served upon the Juries at *Oates's* Trial were Men of great Consideration in *London*, and to dispute their Verdicts was in effect to attain them, and that few Men but would have been pleased to have had such a Jury in a Case of their own. That the Lords would rather believe *Oates* guilty of Perjury and Knavery, than look upon the Grand-Jury and Petit-Jury to be perjurd. That there was no Proof before the Lords that there was any Favour in the Return of the Jury, or that they were nominated by a Club. That there was no Incompetency in the Witnesses against *Oates*, for though he had sworn against many, he had not sworn against all the Jesuits. That the treating of Juries was acknowledged to be scandalous, but there was no Proof of that before the Lords, and if it were true, yet it had not been sufficient to set aside the Verdicts, without other Proofs of Corruption, and thote fit for a Court of Record to receive. That they did not think it sufficient that *Graham* and *Burton* had charged great Sums in their Books, as paid upon the Account of those Trials, for that might be false; or suppose it were expended on the Witnesses, that did not make the Verdict corrupt, so that the Lords might legally, judicially and honestly give their Vote upon the Question. That it was a Matter of great Importance, and concerned every Man in his Life and Estate, if it were taken for granted, that, because a Man had at a Trial pass'd for a good Witness, he was not to be prosecuted afterwards for Perjury. That a Man accused was then in a very unfortunate Condition, for the Grand-Jury was to keep the King's Secrets; the Prisoner in such a Case was for the most part kept close, and his Witnesses were not sworn, so that he could not be ready for his Defence for the present; and if the Witnesses might not afterwards be prosecuted for Perjury, then there was an end of all Prosecution for Perjury. That the Point of Time was material, and that a Person accus'd of Treason had hardly any thing else whereby to make his Innocence appear, since there was no proving of a Negative. That Council was assign'd to *Oates*, and that Witnesses were summon'd and did appear for him. That there was no way to reverse a Verdict but by Act of Parliament, and before that was done, Justice did require that the Party should clear his Innocence. That they look'd upon *Oates* as perjurd in other Matters; that he had accus'd the Queen-Dowager of High Treason, in conspiring the Death or her Husband, at the Bar of the House of Commons, which nobody could believe of her; that he had sworn at the Council-Board he had no other Person to accuse, and yet after had accus'd the Queen Dowager. That *Oates*, at first, might

might come in with a fair Intention, and for Discovery of the Truth, but that appearing in the Presence of so many great Persons, and finding so much Ear given to what he said, it was natural that it should either damp and terrify him, or create too great a Confidence: That it had the latter Effect upon him, and made him fancy himself to have a Right of creating Evidence, rather than delivering it; that it was not fit to encourage such Witnesses; that his Brain seem'd to be turn'd, and that when he was lately brought before the House of Lords, he seem'd to hang his Rod over them. That now the Parliament, acting as Legislators, were not ty'd down to Forms, and that they did not inflict any new Censure on him, but left him in the State they found him. This was a Matter of great Expectation; that the Eyes of all *Europe* were upon it, and that it would be the Occasion of great Censures, if he should be set up for a Witness again, without a full Examination of the whole Affair, especially in the Case of a Conviction for Perjury, which had something in it more particular than other Crimes, for every one had a particular Concern to be cover'd from it. That they would not enter into the Question of what was the Difference between an erroneous and an illegal Judgment, though perhaps a Judgment that was erroneous in point of Form, might not be said to be illegal. That as to the Affirmance of the Judgments, and the Amendments relating to the Judgments, the Judges had own'd to the Lords that there was a Latitude left to the Court in Judgments in case of Perjury, which was one thing that moved them to affirm the Judgments; but that they had never done it, had it not been attended with the Verdict, which the Lords thought of fatal Consequence to take away. That when the Case came to be debated in the House of Lords, upon the Writs of Error, there was not one Lord but thought the Judgments *erroneous*, and was fully satisfied, that such an extravagant Judgment ought not to have been given, or a Punishment so exorbitant inflicted upon an *English* Subject: But considering his accusing the Queen so impertinently, and several other Instances, rather than leave so ill a Man as *Oates*, capable of being a Witness, they, in that streight, chose to affirm the Judgments, though they were satisfied of their being erroneous; and to shew that they were sensible of this, at the same time when they affirm'd the Judgments, they thought fit that a Bill should be brought into the House of Peers to prevent the Inconveniences of the like Judgments for the future. And therefore, when the Lords had gone so far in their Judicial Capacity, as to affirm the Judgments rather than the Verdicts should be set aside, the Commons were not to expect that they would recede now, and set up *Oates*

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for a Witness again, without unquestionable Proof of Corruption in the Jury. Upon the whole matter the Lords insisted, 1st, To leave out what concerned the Corruption of the Verdicts. 2^{dly}, That their Proviso against *Oates* being received for a Witness should pass: And 3^{dly}, that so great a Hardship should not be put upon the House of Peers, as that they should in expresse Terms reverse their own Judgments, since there was no necessity of it.

Reply of the
Commons.

The Managers of the Commons, by way of Reply, gave a summary Account of the whole Proceedings of the Popish Plot; several Subornations and other such Practices which had been used to stifle the Evidence and discredit the Witnesses, particularly *Oates*. As to the Lords Amendments, which concerned the Judgments, it was argued by the Managers, ' That there were Precedents made which afflicted every *Englishman*. That by taking upon them to affirm such Judgments as these, the Lords had, in a manner, taken the Law into their Hands. That this Arbitrary Power in the Lords Judicature was a new Discovery, and if it had been understood in former Times, would have been a very expeditious way of altering the Law upon several Occasions. That the Lords, as a Court of Judicature, are as strictly ty'd to give Judgment upon a Writ of Error according to Law, as any inferior Court whatsoever; that they must not proceed upon Convenience; that this Judgment of the Lords was agreed to be given not according to Law, but according to an Opinion which their Lordships had conceiv'd of the Party, and that also without any Judicial Examination; that instead of correcting the acknowledg'd Errors of the Judgments in the King's-Bench, they affirmed them, and so changed the Law, which ought to be the certain and steady Rule of Government, into the Arbitrary Resolutions of that House. That nothing was aim'd at by the Commons in this Bill, but to set that Matter right; that if this Bill was lost, the Lords had settled it for Law, that every Subject might be used in this ignominious and barbarous manner; that *Oates* was the least part of the Question; how much soever he seem'd concern'd in it; and that the Grievance was, that the whole Kingdom, for *Oates's* Sake, must be made liable to these Whippings. That the Commons hoped the Lords would take this Opportunity of redeeming this Error by passing the Bill, as it was sent up by the Commons, and not expect, because they had given a wrong Judgment, that therefore the Commons must join to support it as an Act of Parliament, for their Lordships Clause did really countenance the Judgment against *Oates*; enacting only that such Punishment should not be inflicted for the future. That it was of great Importance to the Kingdom to have
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this Matter settled : That Judgments of this kind having been extended to several Persons, and to very different Cases, as in that of Mr. *Johnson*, it was thought, with Reason enough perhaps, by the Ministers of those Times, that such Punishments would awe the People, and fit them for Slavery, worse than Death itself ; according to Sir *Thomas Smith's* Observation : *That no Nation is less afraid of Death, or more afraid of Torments than the English.* That the Commons could not think the Nation safe without an express and plain Declaration, not only that the Judgments of the *King's Bench* were illegal, cruel, and of evil Example to future Ages ; but also that the Affirmation of those Judgments was contrary to Law. As to what was said by the Lords to maintain the Amendments which concern'd the Verdicts, the Managers for the Commons replied, That the Lords by insisting not to agree to the Clause in the Bill which calls the Verdicts corrupt, unless the Commons could bring positive Proof of an express Contract for Money to be paid directly to hire the Jurors to give their Verdicts, did seem to have inverted the several Methods of Proceedings in their distinct Capacities : That in their Judicature, where they ought to act by the strict Rules of Law, they proceeded according to a supposed Convenience ; and in this legislative Capacity, where there is a Latitude of Proceedings according to a moral Certainty and Convenience, a single Expression of a corrupt Verdict, tho' asserted upon such Grounds, would not be allowed, unless a precise Proof was made in the strictest Forms of Courts. That it was not the Business of the Commons to furnish the Lords with Evidence, or to inform them otherwise than by reasoning at Conferences, the Lords having proper Methods whereby they may inform themselves, when they think Evidence requisite. That it was notorious that the whole Administration of the Government, especially with relation to Religion, was at that time corrupt ; that the Design was to overthrow the Reformation, and restore Popery to be the national Religion, which could not be effected otherwise than by totally perverting and corrupting the Laws, or the whole Course of Justice ; that they had a Popish King, the House of Peers was to have been filled with Papists by Dispensation with the Act 30 Car. II. and a Popish House of Commons was to have been pack'd by means of *Quo Warrantos*, Surrenders, and making and regulating of Corporations ; that in the Courts of Judicature they did run upon every Man who durst affirm the lawful Rights of an *English* Subject, resolving by partial and corrupt Means to bow or break them ; that for this purpose they provided and pack'd Judges, Sheriffs, Jurors,

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rors, and Witnesses, and those in Authority, who ought to hold the Ballance indifferently, were indeed a Party, a corrupt Party ; that this was prov'd by the Declaration of the 13th of *February*, wherein the Lords and Commons did agree that there were evil Counsellors, Judges and Ministers that assisted the late King to subvert and extirpate the Protestant Religion, and the Laws and Liberties of this Kingdom ; that the Laws were suspended and dispens'd with, an ecclesiastical Commission executed, Bishops committed and prosecuted for an humble, honest Petition, Protestants disarm'd ; whilst Papists were arm'd and employ'd, partial and corrupt Persons return'd and served on Juries, excessive Bail requir'd, excessive Fines impos'd, and illegal and cruel Punishments inflicted ; that when the Commons sent up this Declaration, the Lords acknowledg'd and agreed to the Truth of the Particulars upon the Notoriety of the Fact, without asking the Commons to prove any of the Articles ; that if there were such foul and corrupt Proceedings as the Lords had agreed there were, could it be thought that in this particular Case of *Oates*, who had highly provoked them, and upon the Ruin of whose Credit the Reputation of the whole Party did depend, they departed from themselves, and for once proceeded indifferently, equally, and uncorruptly ? That the Lords might as well, if not better, put the Commons to prove any or every the Proceedings in the late Reign to be corrupt or unequal, which would be to deny or doubt in every Particular, what they had expressly own'd in general. That the Matter in *Oates's* Trial was self-evident : They tried Points that had been examined in Parliament, and were proper to be re-examined only there ; the Witnesses were provoked Enemies ; and tho' his Evidence was not against all Jesuits, it reflected upon the whole Order, and was directly against the whole College at *St. Omer's* ; the Jurors were such whose Affections and Prejudices were well known, and they were return'd by Sheriffs not equally constituted ; and the Judges were Chief Justice *Jefferies* and his Companions. That to render a Verdict corrupt, it is not absolutely necessary that the Jury should bargain and sell it for Money ; if there were a false Byass by Prepossession, Prejudice, Hope of Preferment or Gain, a Fear of Displeasure, 'tis enough : Or suppose the Judges were corrupt, and directed false Law, or false Facts, or overawed the Jury, or admitted any Party to be a Witness or Juror, (as in effect it was) that was enough to render the Verdict corrupt ; but, which is worse, here the Jury was return'd at the Denomination of a Party ; and it was the Fashion of the Times that every one who was accused was to be convicted at the Peril of the Judges and the Jury.

Jury. That if *Oates's* Brain was turn'd, as was said by the Lords, the more wrong was done by convicting him for Perjury, which a Madman could not be guilty of. That after such cruel Usage, which would make a wiser Man mad, it might with more Reason be believ'd his Brain was turn'd, and then there was little Danger of his being used in Evidence for the future. That it was observable that *Oates* was sentenced to be whipt from *Aldgate* to *Newgate* on the *Wednesday*, and from thence to *Tyburn* on *Friday* following, which could be intended no otherwise than in the nature of a Rack, by the Smart of the first Suffering, and the approaching Terror of the next, he might be brought to make such a Recantation as was desir'd; and it was hard to think, that any thing but a full Persuasion in himself, that what he swore was true, could support a Man under such a Torture. That if *Oates* had been guilty of Perjury about the Queen Dowager, or any other Matter, (which had not hitherto been brought in question) it did not relate to the present Case, and he was liable to be indicted and punish'd for it, whatsoever became of this Bill. That the Commons did not argue, that because a Man had been once believ'd at a Trial, he was not to be prosecuted for Perjury also: But they observed that the very same Objections had been made to *Oates's* Testimony at former Trials, and proved by the same Witnesses, and yet the Juries gave credit to *Oates*: So that, according to the Lords way of reasoning, to suppose *Oates* to be perjurd in these Points, was to attaint these former Juries, and the Lords ought to be careful of charging such a Guilt upon one Jury or another. That, upon the whole, the Commons did not think it reasonable, it should be required of them, to concur to support any part of his erroneous Record: That 'tis the Right of the Subject, that all that is done before or after an illegal Judgment should fall with it; and tho' in Proceedings in the legislative way, the Commons were sensible, they were not tied up to the Forms, yet they were certainly bound to the Rules of natural Justice, and were not to deprive the Subject of his legal Advantage.

The Result of this memorable Conference was, that the Commons stiffly rejected the Amendments and Proviso, and that the Lords firmly * adhered to both, of which they acquainted the Lower House. The Commons being offended at this Message, demanded a Conference with the Lords for settling the Method of Proceedings between the two Houses upon Conferences and free Conferences, and appointed a

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Both Houses
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On the Report, Contents 34, Proxies 14; in all 48. Not content 32, Proxies 6: in all 38.

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Committee to draw up Reasons to be offered to the Lords, which see in CHANDLER's *Hist. Anno W. and M. 1689*, Page 350.

It must not however be forgot, that these Lords following entered their Dissents to the Question of adhering for the Reasons ensuing :

1st, Because the Persons who gave Evidence against *Titus Oates* were incompetent Witnesses.

2^{dly}, Because *Titus Oates's* Evidence had before been verified upon those very Points in which the Perjury is assigned.

3^{dly}, Because it was at a Time when neither Council nor Witnesses could, with Safety, appear for *Titus Oates*.

4^{thly}, Because it was at a Time when the whole Course of the Administration of the Government was corrupted.

5^{thly}, Because a vast Sum of Money, on that Trial, and other foul Practices, were used both with the Witnesses and Jurors.

6^{thly}, Because it makes it almost impossible to prove that a Verdict is corrupt, if nothing but the giving and taking of Money may pass for Evidence; whereas the Law has declared, that many other Things may make a Verdict corrupt.

7^{thly}, Because this gives the Jury Preference in point of Justice above four successive Parliaments,

8^{thly}, Because it casts an Imputation on the Verity of the popish Plot, and on the Justice of the Nation, and justifies my Lord *Stafford* and the rest that suffered on the Score of the Plot, so long as the Judgment against *Oates* stands in Force.

9^{thly}, Because it is expressly against the Declaration of our Rights on the thirteenth of *February* last.

10^{thly}, Because it is the greatest Blow that ever the *English* Liberties received, and puts them under a greater Disadvantage than if they had not so lately been declared.

11^{thly}, Tho' a Bill should be brought in to declare the like Judgment shall not be given in Time to come, yet it would imply, that before, such Judgment was lawful; which may be of pernicious Consequence.

12^{thly}, Because this Judgment against *Oates* has so far been received for Law, since *Oates* suffered, that Whipping hath been used in other Cases besides Perjury.

13^{thly}, Because the Lords have allowed the Judgments against *Titus Oates* to be erroneous.

14^{thly}, Because it is more consistent with the Honour and Justice of the House of Peers to rectify a mistaken Judgment, given by themselves, than to adhere to it.

15thly, Because, at *Oates* his Trial, the Court refused to grant a *Habeas Corpus* for his Witnesses that were in Prison, tho' often by him demanded, and no Notice was taken of his Demand even by the Jurors themselves.

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Bolton, Herbert, Monmouth, Bolingbroke, Radnor, Stamford, Granville, Montagu, Paget, Shrewsbury, Ward, Delamer, Newport, Cornwallis, Rivers, Vaughan, J. Lovelace, Bath, Culpeper, Macclesfield, Oxford.

These Heats between both Houses were like to increase to a dangerous Height, when they were happily extinguished by a sudden Adjournment of the Parliament; and all that *Oates* was able to obtain in this Session, was only an Address from the Lords, at the Commons Desire, requesting his Majesty, 'That whereas *Titus Oates*, Clerk, had already received a severe Punishment for the Perjury whereof he had been formerly convicted, and some of the said Punishments would still be continued upon him, unless they should be remitted by his Majesty, his Majesty would be graciously pleased to grant his Pardon to the said *Oates*.'

Address to the King that *Oates* might be pardoned.

The King readily complied with the Lords Desire; and moreover, as soon as, by their Lordships Order, *Oates* was discharged from his Confinement, his Majesty received him into his Protection, and allowed him a considerable Pension; which occasioned various Reflections.

Complied with, and a Pension settled on him.

This very singular Case of *Oates*, and the Bustle it created, having, in a manner, obliged us to throw the whole together, we must now take Notice of some other Particulars, which happened this Session, and which are too remarkable to be omitted.

On the 9th of May, the Commons had sent up a Bill to the Lords, for declaring the Rights and Liberties of the Subject, and settling the Succession of the Crown; which their Lordships having considered, they found the latter Part of it (as they thought) defective, no mention being made in it of her Electoral Highness the Princess *Sophia*, Dutches of *Hanover*; and thought fit, amongst other Amendments, to add a Proviso in her Highness's Favour. The Bill, thus amended, was returned to the Commons, where it was disagreed to. Some alledging, that a Parliament of *England* had never determined the Degrees of Succession beyond two or three Persons; that the mentioning the House of *Hanover* would give an Opportunity to Foreigners of intermeddling too far in the Affairs of this Nation; and lastly, that, before the Crown should devolve on the Princess *Sophia*, some of the Catholic Princes, who were nearest in Blood, and who by this Clause were to be excluded, might turn Protestants. The King

Amendment to the Bill of Rights and Succession in favour of the Princess Sophia.

Disagreed to by the Commons.

Espoused by the King.

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Reasons of the
Lords.

who wished nothing more earnestly than to see the Crown settled in the Protestant Line, used his utmost Endeavours to bring the Commons to a Compliance with the Lords; declaring in Council, that his Queen, and both the Prince and Princess of *Denmark* desired it as well as himself. The Lords likewise warmly insisted on their Clause, alledging, ' That tho', in the Instrument offered to the King and Queen's Majesties, the Limitation went no farther than to their Persons; yet in Law, which has respect to all succeeding Ages, and that settles for ever the Liberties of the Subjects, they thought it reasonable to carry the Limitation of the Succession of the Crown farther than was necessary, in that Instrument in which the Crown was offered to their Majesties, and that had no other view but of the Succession of their Posterity. 2^{dly}, That they could see no Danger, nor any ill Consequence that might follow a further Limitation, but very much to the contrary. For, 1st, This secured the Nation effectually from the Danger of having any Papist to reign in it, at any time hereafter; since of such a number of Papists as stood next the Crown in the Lineal Succession, some might be prevailed on to make a shew of changing their Religion, if they had a Prospect of succeeding to the Crown upon it, and no Danger being so great as the having one who is a pretended Protestant, but in truth a conceal'd Papist, to reign over us; the most effectual way to secure our Religion, was to declare the Succession in a Family that was known to be Protestant. 2^{dly}, It was the Interest of *England*, at present, to do Right to that great House, by limiting the Succession according to the Proviso. For being this Limitation had been proposed, if it should be now laid aside, it would look like excluding of that House, which might provoke them to take Resolutions that might be of great Prejudice to the Nation in this present Conjuncture.'

These Reasons having been deliver'd to the Commons, and several Conferences having past between both Houses, without any effect, Heaven interposed to terminate these Differences, by blessing her Royal Highness, the Princess of *Denmark*, with a Son, the Duke of *Gloucester*.

Birth of the
Duke of Gloucester.

Address to put
the Coasts in a
State of Defence, &c.

On the 15th of *June* the Lords having consider'd, in a grand Committee, the State and Condition of this Kingdom, and what Means to use against the Designs of the Papists, and the Power of the *French* King, resolv'd upon an Address to be made to his Majesty, to put the Isles of *Wight*, *Jersey*, and *Guernsey*, *Scilly*, *Dover-Castle*, and other Places, which might be expos'd to the Enemy, into a Posture of Defence: That Papists might be disarm'd, their Horses taken from them, and they not be permitted to travel

vel more than five Miles from their Houses; and that Care be taken to prevent Protestants concealing or owning Papists Horses. At the same time their Lordships empower'd the Committee, appointed to prepare this Address, to look into the Miscarriages in *Ireland*, and to send for Persons and Papers for their Information.

Anno 1 Will.
III. 1689.

The Committee drew up an Address according to their Directions, and having acquainted the House, That they could not come to a full Discovery of the Miscarriages of *Ireland* without a Sight of the Minute-Books of the Committee for *Irish* Affairs, the first of *May* last, the Lords order'd thereupon, that another Address be presented to the King, desiring that the said Minute-Book might be communicated to the Committee. His Majesty's Answer to this

Addresses relating to the Miscarriages in *Ireland*.

Address was, *That he would consider of it*; which obstructed the Proceedings of this Committee for near a whole

The King's Answer.

Month; but upon the Commons voting, *That those Persons that had been the Occasion of delaying the sending Relief to Ireland, and had advis'd the King to defer the giving Leave for some Members of the House of Commons to inspect the Minute-Books of the Committee for Irish Affairs, were Enemies to the King and Kingdom; and their debating to address the King for the removing the Marquis of Halifax and Carmarthen from his Council*: His Majesty acquainted the Lords by the Earl of Nottingham, and the Commons by Mr. Comptroller, *That he gave Leave that a Committee of the Upper House might inspect the Book, according to their Desire*. However, this

A second,

Book not being sufficient to discover the Miscarriages of *Ireland*, the Lords ordered the Earls of *Shrewsbury* and *Nottingham* to address to his Majesty, *That he would be pleas'd to give order, that the Witnesses in relation to Ireland, since his Majesty's taking the Administration of the Government upon him, to the time the Council-Books began, might be communicated to the Committee of their House*. These two Earls deliver'd their Message to the King; but his Majesty answer'd, *That there were no Minutes of the Irish Affairs in the Time mention'd by their Lordships*.

Another Address on the same Affair;

And Answer,

About this time the *French* Papists, taking advantage of the Countenance given to the Protestants of the Nation, became very turbulent and audacious, publicly traducing the present Government, and dispersing either Papers in favour of the abdicated Monarch, or Libels against their present Majesties. The House of Lords being inform'd of their insolent Behaviour, and suspecting they might advance to more dangerous Attempts, order'd, *That an Address be presented to his Majesty, desiring he would issue out his Proclamation, that no French Papist might come into Whitehall,*

Address for removing French Papists,

Anno 1 Will.
III. 1689.

St. James's, or St. James's Park ; and that all French Papists, that were not Housholders, nor Merchants, should leave the Kingdom within six Weeks, and all others within six Months, under the pain of being prosecuted as alien Enemies, according to Law. The Lords of the white Staves having presented this Address, his Majesty answer'd, He would

King's Answer.

speedily give Order therein ; but some Days after the Lord Chamberlain acquainted the House, That his Majesty finding, upon further Consideration, that to banish all French Papists might be disadvantageous to the Nation, they trading to other Countries which were his Majesty's Allies; and besides, his Majesty having promis'd them to protect them, whilst they lived peaceably here, thought fit to suspend the issuing such a Proclamation, until he had asked their Lordships further Opinion in that Matter. Upon Consideration of this Message, the Peers thought fit to leave that Affair to his Majesty's Discretion.

There was likewise a Controversy between the two Houses, on a Bill for an additional Duty on Coffee, the Particulars of which see in CHANDLER's *Hist. Anno 1 W. and M. 1689. Pages 347, 348.*

Some Days after, the Commons having sent up a Bill to the Lords, for the enjoining the wearing the Woollen Manufacture of this Kingdom at certain Times of the Year, the Bailiffs, Wardens, and Assistants of the Companies of Silk-Weavers of London and Canterbury, presented a Petition to their Lordships in a tumultuous manner, praying to be heard before the said Bill should be passed into a Law. Whereupon the House ordered their Speaker to tell the Petitioners, ' That the Lords did not then think fit to give an Answer, because they observed there was an unusual manner of Application of Men, who ought to be better directed by them who were Bayliffs, Wardens, and Assistants of the Company. That the Lords did first require that those Crouds should go Home ; and when that was done, neither they, nor others, People of this Nation, needed to doubt, but that their Lordships would do Justice, and hear the Objections of Parties concerned in this or any other Bill that should come before them.'

And to prevent the Eruption of this unruly Multitude, which was supposed to be egg'd on by the Discontented, the Lords desired his Majesty, to command some of the Horse and Foot-Guards to be aiding to the Civil Powers ; and ordered the Governor of the Tower to take care to prevent any unlawful Concourse of People in the Hamlets of that Fortress ; the Lord Mayor of the City of London to have a sufficient Number of the Trained Bands in readiness, to hinder the passing of any extraordinary Numbers of People

A tumultuous
Petition of the
Silk-Weavers,
occasion'd by a
Woollen Bill.

Answer of the
Lords.

Address for
Guards, and
Order to the
Lord-Mayor,
Governor of the
Tower, &c.

ple thro' the City towards *Westminster*. And the Deputy-
 Lieutenants, and Justices of the Peace of the County of
Middlesex, to provide for the Security of the City, and
 Liberties of *Westminster*. The Weavers seeing these Pre-
 parations, remained quiet in their Houses : Whereupon the
 Lords discharged the Trained-Bands which had been posted
 in the *Palace Yard, Westminster*. However, upon the second
 reading of the Bill for the enjoining the wearing the Woollen
 Manufactures, their Lordships unanimously rejected the
 same.

Anne : Will.
 1711. 1689.

The Woollen
 Bill rejected.

The House of Commons having past the Bill, for attain-
 ing several Persons in Rebellion against their Majesties, and
 sent it up to the Lords for their Concurrence, the Committee
 whom their Lordships appointed to examine the same,
 prayed, That the Commons might be desired by a Conference to
 give a List to the House of Lords of the Persons that gave Evi-
 dence to the Commons, against the several Persons designed in
 the Bill to be attainted; that the Lords might be fully satisfied
 by Evidence, *vivâ voce*, (to attain the several Persons, as
 they supposed the Commons were;) for that if the Lords should
 by themselves enquire of such Evidence, they might fail of hear-
 ing all the Evidence the House of Commons had had. The
 Lords having agreed to this Motion, a Conference was de-
 fired and managed betwixt both Houses, at which the Com-
 mons gave a List of the Witnesses that deposed at their Bar,
 against the Persons mentioned in the Bill of Attainder. These
 Witnesses were *William Watts, Matthew Gun, Basil Purefoy,*
 and *William Dalton*; whose Evidence not satisfying the
 Lords, the Bill lay neglected for some Days; but the Com-
 mons having pressed their Lordships by two Messages to give
 Expedition to it, the House agreed with the Committee in
 leaving out *Thomas Lord Howard, the Earl of Dover, the*
Lord Hunsdon, Sir Roger Strickland, Sir Edward Herbert,
Colonel Hugh Southerland, and Sir William Jennings, because
 there did not appear sufficient Evidence against them. The
 Prorogation of the Parliament, which happened soon after,
 put a final Stop to this Bill.

Conference on
 a Bill to attain
 several Persons.

Pursuant to the King's repeated Instances in favour of the
Dutch, the Commons put at last the finishing Hand to a
 Bill for appropriating certain Duties for paying the States-
 General of the United Provinces the Charges for his Majesty's
 Expedition into this Kingdom; which being read in the House
 of Lords, it was moved, That several Members of the House,
 and divers Servants of King *Charles II.* had Securities appro-
 priated out of several Duties which past away from them
 by this Bill; and therefore they desired they might be heard
 by their Council. This Motion being received, and Coun-
 cil

Motion occasi-
 oned by the Bill
 for Payment of
 the Dutch.

[Anne 1 Will.
III. 1689.

cil heard, their Lordships gave their Consent to the Bill without any Amendment; but at the same time they ordered their Speaker to present the following Address to his Majesty.

Address there-
on.

‘ **T**HE Lords Spiritual and Temporal in Parliament assembled, upon their Concurrence with the House of Commons, in a Bill entitled, *An Act for appropriating certain Duties for paying the States General, &c.* and for other Uses, think it incumbent on them, in Honour and Justice, to lay before your Majesty, how several of their own Body found themselves aggrieved thereby, in relation to some Debts owing to them on the Account of having been Servants to King Charles II. and that their Claim to their Arrears on that Score was weaken’d and prejudiced by this Bill, which cuts them off from all Pretences whatsoever, except such as can be comprehended within the Sum of sixty thousand Pounds, which is very far short of answering their just Demands, and which they conceive to have been better and more amply provided for, in an Act passed in the first Year of the Reign of the late King James, entitled, *An Act for granting to his Majesty an Imposition on all Tobacco and Sugar imported between the 24th Day of June, 1685, and the 24th of June, 1693.* Yet being more concern’d for the Welfare of your Majesty’s Affairs than their own particular Benefit, and being sensible of the Importance it may be to your Majesty, as well as to the Good of *Christendom* in this Conjunction, that the Debt owing to the States General of the United Provinces, upon account of assisting your Majesty at your coming into this Nation, for your Deliverance from Popery and Arbitrary Power, should be provided for to their Satisfaction; they have willingly desisted from giving any Obstruction to the passing of the said Bill, and have entirely submitted their long and faithful Services to their deceased Royal Master, to the Conveniency of your Majesty’s present Circumstances.

‘ Whereupon this House hath thought fit to represent to your Majesty this most respectful and dutiful Acquiescence of the Peers herein concerned in your Majesty’s Justice and Goodness, and to beseech your Majesty, that you would be pleased to take their Condition, and the Manner of their present Resignation of it, into your gracious Consideration and Royal Protection, wherein this House doth promise themselves, that the particular Peers concerned will find an entire Security.

‘ And whereas there is a Clause in this Bill which provides that 60000 *l.* therein mentioned for the late King
‘ Charles’s

Charles's Servants, should be applied to such only as were his Servants at the Time of his Decease ; it is the humble Desire and Recommendation of this House to your Majesty, that this Restraint may bring no Prejudice to the just and equitable Pretensions of such of the Servants of his said late Majesty, as are Members of this House, or of others in their Circumstances ; but that your Majesty will be graciously pleased to look upon them, as entitled to an equal Share of your Favour and Consideration, which others their Fellow-Servants have generally had, or may pretend to by virtue of this or the former Act of Parliament before mention'd.

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III. 1689.

The Marquis of *Hallifax*, Speaker of the Lords, having waited on the King with the Address, his Majesty receiv'd the same kindly ; and as for those particular Peers that were concerned in the Bill, he said, *He was sensible of their Behaviour towards him upon this Occasion, and would not forget it.*

Two Days after, the King went to the House of Lords in Parliament ad order to pass this Bill, and put an End to the Session, which journe was done by Adjournment to Sept. the 20th, and afterwards to October the 19th.

In this Interval his Majesty thought fit to fill up the vacant Sees of *Worcester*, *Chichester*, and *Bristol*, which were bestowed, the first on Dr. *Edward Stillingfleet*, Dean of *St. Paul's* ; the second on Dr. *Simon Patrick*, Dean of *Peterborough* ; and the third on Dr. *Gilbert Ironside*, Warden of *Wadham College* in *Oxford*.

The King likewise finding his Affairs went ill in the Marquis of *Hallifax's* Hands, granted a Commission to Sir *Robert Atkins*, Chief Baron of the Court of Exchequer, to supply the Place of Lord Chancellor, or Lord Keeper, and as such to be Speaker to the House of Lords.

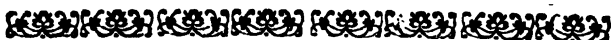
Things being thus prepared, on the Day appointed by the last Adjournment, both Houses met, and the King made a Speech from the Throne, which see in CHANDLER's *History*, Anno 1 W. and M. 1689, Page 353.

However, the Business of *Oates*, and some other Matters, which had rais'd such dangerous Heats and Animosities between both Houses, being only superseded by the repeated Adjournment of the Parliament, it was mov'd in Council to put a final End to them by a Prorogation : But the King thought fit to do nothing in so nice an Affair without the Advice of both Houses. The Lords readily consented to his Majesty's Desire, and as for the Commons, though some of their Members pretended, that such a Prorogation was irregular, after his Majesty had made a Speech, wherein he had propos'd new Matters to their

Con-

Anno a Will.
III. 1689.

Consideration, yet the contrary Opinion carried it by a great Majority; so that his Majesty being come to the House of Lords on *Monday* the 21st of *October*, Sir *Robert Atkins*, their new Speaker, acquainted both Houses, that it was his Majesty's Pleasure that the Parliament should be prorogued to the *Wednesday* following.



The SECOND SESSION of the Convention Parliament

IS, therefore, to be dated from *October* the 23^d, when it was open'd by his Majesty, only with a few Words by way of Reference to the Speech he had made four Days before.

The Lord *Griffin* having been often requir'd by Letters and otherwise to attend the House of Lords, and still refusing to appear, their Lordships desir'd the King by an Address to summon him by his Royal Proclamation to render himself, (at such a Day as his Majesty should appoint) to their House; if then actually sitting, or to one of the Secretaries of State. His Lordship being accordingly summon'd, surrendered himself to the Lord *Nottingham*, and on the 19th of *October*; having made his Appearance before the House of Lords, the Speaker told him, That he knew what he had to do before his sitting in that House; whereupon his Lordship declines taking the Oaths, he not being prepar'd for it: Which was readily granted.

Lord Griffin declines taking the Oaths.

The same Day the Parliament was prorog'd, a Packet was intercepted, which plainly discover'd how little the Lord *Griffin* was inclin'd to own the present Government. This Discovery happen'd in the following Manner. His Lordship having caused a large Tin Bottle to be made with a double Bottom, order'd his Cook to go to a Pewterer's at an unseasonable Hour of the Night, to get the false Bottom solder'd: The Pewterer finding a Packet between the two Bottoms of the Bottle, began to suspect something; and the Cook not giving him a satisfactory Answer about its Contents, he made bold to open it. The Superfcription of several Letters directed to King *James*, the Duke of *Berwick*, &c. justified the Pewterer's Suspicion, who immediately seiz'd the Lord *Griffin*'s Cook, and carried him to one of the Secretaries of State; but he being gone to Bed, and his Servants refusing to admit the Pewterer to their Master's Presence, the Lord *Griffin*, who by this time began to apprehend what had befallen his Messenger, took this Opportunity to make his

He is taken into Custody.

his Escape. Besides the Letters, there was found an Account of some private Resolutions of the Council, and an exact List of all the Land and Sea Forces of *England*; whereupon the Lord *Griffin*'s House and Papers were searched, his Lady committed to the *Tower*, several suspected Persons arrested, and the *Custom-House* Officers order'd to stop all unknown Persons, that offer'd to cross the Seas without Passes. Upon which his Lordship having absconded himself some few Days, and finding it difficult to go out of the Kingdom, surrender'd himself to the Earl of *Shrewsbury*, Secretary of State, who having examin'd him, committed him to the Custody of a Messenger, from whence he was sent into the *Tower*. Thereupon the Commons appointed a Committee to enquire how the Lord *Griffin* came to know a Resolution, which the King had communicated to four Persons only; and the Lords address'd his Majesty to let him understand that the said Lord being one of their Members, they were consequently his proper Judges. The King having left the Cognizance of this Affair to the Peers, they began to examine the Papers intercepted in the Pewter-Bottle, which were the only Evidence against the Lord *Griffin*; and because some few Days before it had been resolv'd in that House, that Colonel *Algernon Sidney* was unjustly condemn'd, nothing but Writings, found in his Closet, having been produced against him, the Earl of *Rocheſter* argued, from a Parity of Reason, in Favour of the Lord *Griffin*; who after several warm Debates was set at Liberty upon sufficient Bail.

Anno 2 Will.
III. 1689.

Debate concerning him.

He is admitted to Bail.

While the Lord *Griffin*'s Affair was depending, the Lord *Preston*, Viscount of *Scotland*, having presented to the House of Lords a Patent from King *James*, dated from *Versailles* the 21st of *January*, whereby he was created Baron of *England*, their Lordships voted him guilty of High Treason; but however, they thought fit to refer the Examination of that Matter to the Judges, their Assitants. My Lord *Preston* pretended, that the Patent being dated one Day before the meeting of the Convocation, which had voted the Throne vacant, it ought therefore to be valid; to which it was answer'd, That the Vacancy was suppos'd to begin from the Moment King *James* left the Kingdom, whereby he abdicated the Government. The next Day the Judges brought in the Lord *Preston* guilty of a high Misdemeanour, for which he was committed to the *Tower*. Not long after, his Lordship acknowledg'd, and begg'd Pardon for his Fault, by a Petition to the Lords, which was rejected upon his subscribing himself, Viscount *Preston*, without expressing of what Kingdom; the next Day he presented another, wherein he stiled himself Viscount of *Scotland*; and moreover, it

Petition of the Lord Viscount Preston.

He is sent to the Tower.

1689.

D d d

being

Anno 2 Will.
III. 1689.

And discharged.

Bill of Indem-
nity.

being alledg'd in his behalf, that by accepting a Patent from King *James*, he never meant an Affront to King *William*, but only to secure his own Person from Imprisonment, (being at that time prosecuted at Law by the Lord *Montagu* for a considerable Sum of Money) he was releas'd from his Confinement, without giving Bail.

The Bill of Indemnity amused both Houses for a considerable time, tho' to as little purpose as it had done the former Session: The Lords acquainted the Commons, that they had appointed a Committee to enquire who had advised the using of *Quo Warranto's* against Corporations; and desired that Mr. *Hampden*, (Junior) and Mr. *Trenchard*, two of their Members, might appear before the Committee they had named to find out the Authors and Promoters of the Execution of the Lord *Russel*, *Algernon Sidney*, Sir *Thomas Armstrong*, and Mr. *Cornish*. 'Tis certain Mr. *Hampden* was able to give the Lords a great Light into that Affair, having been involved in the like Danger himself, and out of which he disengaged himself not without Difficulty. But this Enquiry was not so much intended against Mr. *Hampden*, as against the Marquis of *Hallifax*, who had endeavoured Mr. *Hampden's* Ruin by procuring a Note from the late Duke of *Monmouth*, whereby he was made an Accomplice to the pretended Crime of the Lord *Russel's*. But the Duke, afterwards repenting of having charged one of his best Friends, earnestly demanded his Note from King *Charles II.* to whom the Marquis had delivered it; and which he at last obtained on this Condition, never to return into his Majesty's Presence.

Mr. *Hampden*,
jun. appears be-
fore a Commit-
tee of Lords.

Mr. *Hampden* appeared before the Lords Committee, and made a long Speech, wherein he rather aimed at justifying himself, than at discovering the Authors of the Lord *Russel's* Death. He extolled his Services to the present Government, insinuating that the whole Intrigue of King *William's* being invited over, had been managed by himself and Mr. *Johnson*, a *Scotsman*, Nephew to Bishop *Burnet*, whom he employed to gather the Results of the several Consultations in private Houses; and that by stirring in this Affair he had run an imminent Danger; for had *Johnson* been suspected, he would have been sent into *Scotland*, and forced by the Rack (which is allowed in that Kingdom) to discover those who set him at Work.

A Clause added
to the Bill of
Rights.

The important Bill to settle the Rights of the Subjects, and the Succession of the Crown, being past the House of Commons, and sent to the Lords: their Lordships, considering how far King *James* had gone towards the introducing the Popish Religion into the Nation, took special Care to prevent the like for the future, by adding a Clause to the Bill

Bill, That the Kings and Queens of *England* should be obliged at their coming to the Crown to take the Test in the first Parliament that should be called at the beginning of their Reign; and that if any King or Queen of *England* should embrace the Roman Catholic Religion, or marry with a Roman Catholic Prince or Princess, their Subjects should be absolved of their Allegiance; and that the Crown and Government of these Realms should from time to time descend to, and be enjoyed by such Persons, being Protestants, as should have inherited the same, in case the said Persons so reconciled to the Church of *Rome*, or marrying a Papist, as aforesaid, were naturally dead.' Some Days after, the Lords made a further Progress in the Bill, and because the *Dispensing Power* was mentioned in it, as one of the chiefest Grievances, some were of an Opinion that such a Power was a Prerogative inseparable from the Crown, and that in some Cases the King may dispense, if not with a Law, yet with some part of it. To support this Opinion, they alledged, that there was a Statute prohibiting all Foreign-built Ships, or such as had not been laden in this Kingdom, to trade to the *English* Plantations in *America*; but that nevertheless, for the Good of the Nation, the King might dispense with that Statute, upon account of the Negro-Trade, which the *English* drove with the *Spaniards*, and of which they had cut off the *Dutch*. Tho' little could be said in opposition to those Reasons, yet because they strained too high the Royal Prerogatives, which the prevailing Party designed to moderate, and seemed to justify some of the late Mismanagements, they were rejected with some Heat.

Anno 2 Will.
III. 1689.

Debate on the
Dispensing
Power.

Upon the third Reading of this Bill a Rider was offered to be added, *That all Pardons upon an Impeachment of the House of Commons are hereby declared to be null and void, except it be with the Consent of both Houses of Parliament.* A Rider in Case of Impeachments, by the Commons proposed.

After long Debate, this Question was put, Whether this Rider shall be made part of the Bill?

It was resolved in the Negative, Content 17, Not content 50. And rejected.

Memorandum. That before the putting the aforesaid Question, the Lords following desired Leave to enter their Dissents, if it were carried in the Negative, and accordingly do enter their Dissents in these Reasons following: Protest thereon.

1st, Because to impeach being the undoubted Right of the Commons of *England*, and by which alone Justice can be had against Offenders that are too big for the ordinary Courts of Justice, Impeachments would be render'd altogether ineffectual, if the King can pardon in such Cases.

D d d 2

2dly,

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III. 1689.

2dly, Because such a Power of pardoning would cause a Failure of Justice, which the Law of *England* will not allow of in any Case.

3dly, Because the Government becomes precarious, when there is wanting a sufficient Power to punish evil Ministers of State, the bringing of such Ministers to Justice being then a Matter of Grace, and not of Right.

4thly, Because such evil Ministers are in a much securer Condition than any other Offenders, it being the Interest of ill-disposed Kings to protect them from Justice, since they are so much the more useful and necessary to such Kings, by how much they have been instrumental in subverting the Government.

5thly, Because the King can only pardon such Offences as are against himself, but not in case of an Appeal, nor wherever the Wrong or Injury is to a third Person.

6thly, *A Fortiori*, the King cannot pardon an Impeachment, because all the Commons of *England* have an Interest in it, and it is at their Suit.

7thly, Because it is inconsistent with the Government of *England* to vest a Power any where, that may obstruct the public Justice.

8thly, Because such a Power of pardoning sets the King's Prerogative above the Government, which is inconsistent with the Reason and Nature of this Constitution.

9thly, Because the rejecting of the Rider, and the Vote of this House against the Dispensing Power in general, don't seem to be very consistent, since the Power of pardoning upon Impeachments is altogether as great as that of a dispensing Power.

Macclesfield, Ossulstone, Bolton, Delamer, Cornwallis, Bath, J. Lovelace, R. Montagu, Herbert, Stamford, Granville, Crewe.

Die Martis 14^o Januarii, 1689. Upon Consideration of the Report from the Committee of Privileges, the tenth Instant, concerning the Trial of Peers :

Question with regard to the Trial of Peers, carried in the Affirmative.

The Question was put, That it is the antient Right of the Peers of *England* to be tried only in a full Parliament for any capital Offences ?

It was resolved in the Affirmative.

Memorandum ; That the Lords following, before the putting the abovesaid Question, desired Leave to enter their Dissents as follow :

Protest thereon. 1st, Because the Statute of 15 *Edw. III.* which first enabled the Trial of Peers to be only in Parliament, is repealed

pealed by the Statute of 17 *Edw.* III. as contrary to the Laws and Usage of the Realm, as well as the Rights and Prerogatives of the Crown.

Anno 2 Will.
III. 1689.

2^{dly}, As the Statute of 17 *Edw.* III. has declared the Law and Usage of the Realm before the Statute of 15 *Ed.* III. so the Practice has been accordingly ever since, inasmuch that from that Day to this, no Peer indicted for a capital Offence has ever claimed a Privilege of being tried only in Parliament; and tho' very many Peers have been tried and attainted out of Parliament, yet no Writ of Error to reverse such Attainder for that Reason has ever been demanded.

3^{dly}, Because the Consequence of this Assertion would be, that the Heirs of all such as ever were attainted out of Parliament might claim to be Peers of this Realm, the Attainder of their Ancestors being void, because the Sentence against them was given by a Court that had no Jurisdiction; and also for the same Reason, all Acquittals of any Peers would be void too, and the Peers may be brought again into Jeopardy of their Lives.

4^{thly}, The frequent Attempts to obtain an Act of Parliament to enact, that no Peer shall be tried out of Parliament for capital Offences, is an Evidence, that, without such a Law, a Peer may be tried out of Parliament, and no Vote of either House of Parliament can change the Law.

5^{thly}, Because this Vote takes from the Subject the Right of an Appeal of Felony, in which a Peer ought to be tried by a Jury of Commoners, and not by his Peers.

6^{thly}, Because it deprives the Peers of the Benefit of the *Habeas Corpus* Act; for if a Peer cannot be tried for a capital Offence but only in Parliament, and may be committed to Prison for such Offence, he must of Necessity remain there till the next Parliament, contrary to the said Act, which no Resolution of the House of Peers can or ought to alter at the Price of their Liberty.

7^{thly}, This Vote, that the Peers must be tried only in full Parliament, seems to imply, that the Commons are necessary Parties to the Trial of a Peer, which is contrary to *Magna Charta*, and the known Laws of this Realm.

Nottingham, Sidney, Cornwallis.

Die Jovis 23^o Januarii, 1689. The House was put into a Committee to consider of the Bill, entitled, *An Act to restore Corporations to their antient Rights and Privileges.*

The House was resumed, and the Earl of *Mulgrave* reported, That the Committee of the whole House have been

Anno 2 Will.
III. 1589.

Amendment to
the Bill for re-
storing Corpora-
tions, carried in
the Affirmative.

been upon the first enacting Clause in the Bill ; and it is the Opinion of the Committee, that the Words [declared, and were and are illegal] should not stand in the Bill.

Then this Question was put, Whether to agree with the Committee in leaving out those Words ?

It was resolved in the Affirmative, Contents 38, Proxies 13, in all 51 ; Not content 39, Proxies 4, in all 43.

Memorandum, That the Lords following, before the putting of the abovesaid Question, desired Leave to enter their Dissents if the Question was carried in the Affirmative, and accordingly they do enter their Dissents as follow :

Protest thereon.

1st, That there hath been only two Cases cited, in all the Law Books, towards the maintaining the Surrender of Corporations, *viz.* *Dyer* 273, 282. The Opinions in these Cases are not upon Argument, the first of them, as appears by the Book, needed, and had an Act of Parliament to confirm it, being denied to be Law, in my Lord *Coke's* third Report, in the Dean and Chapter of *Norwich's* Case, 44 *Eliz.* The other of them denied to be Law by the Judges of the *King's-Bench* in *Fulcher* and *Heywood's* Case in 2 *Charles I.* in *Palmer's* Reports ; and by the express Resolution of the Judges in that Case, a Corporation cannot, by Surrender, dissolve itself.

2^{dly}, Because that *Beda*, in the Time of *Henry V.* and the Corporation of *Newbury*, did surrender to that King, which was not allowed ; but the House of Commons called upon them to send up Members, notwithstanding the said Surrender ; and, until they petitioned the said House, setting forth their Inability of supporting that Charge, they were not excused ; but the House allowed their Petition, and they have sent none since.

3^{dly}, The Surrenders in Debate being for the Intent and Purpose of returning such Parliament Men whom the King should appoint, was for the Subversion of the Laws and Liberties of *England*, and introducing of Popery and arbitrary Government ; and that the putting out these Words seems to be the justifying of the most horrid Action that King *James* was guilty of during his Reign ; and we humbly conceive, a denying the chiefest Grievance mentioned in King *William's* Declaration when he was Prince, and the greatest Inducement for the People's taking up Arms in Defence of their Liberties and Properties, and Protestant Religion, and the establishing this King upon the Throne.

*Bolton, Herbert, Maclesfield, Bedford, * Ashburnham, Montagu, Vaughan, Stanford, Sydney.*

This

* John Ashburnham, Esq; created Baron Ashburnham May, 30, 1689.

This Session produced likewise one Protest more, in point of Time, prior to those already inserted, as follows :

Anno 2 Will.
III. 1689-90.

Die Martis 19^o Novembris, 1689.

Hodie 3^a vice lecta est Billa, An Act disabling Minors to marry without the Consent of their Fathers or Guardians, and against their untimely marrying after the Decease of their Fathers, and for preventing all clandestine Marriages for the future. Bill to disable Minors from marrying without Consent of Parents, or Guardians, passed.

The Question being put, Whether this Bill shall pass ?
It was resolved in the Affirmative.

Memorandum, That these Lords following, before the putting of the abovesaid Question, desired Leave to enter their Dissents, if the Question was carried in the Affirmative, and accordingly their Lordships do enter their Dissents as follow :

Though we approved of the Design of the Bill, yet we enter our Dissent, because we believe Marriage to be so sacred an Ordinance of God, that, after it is religiously contracted and consummated, it cannot be nulled. Protest thereon.

Carnarvon, Dartmouth, W. Landaff, P. Winchester, Abington, Maynard, Tho. Meneven, H. London, Gilb. Bristol.

January the 27th, The King came to the House, and clos'd the Session with a Speech, to be found in CHANDLER'S *Hist. Anno 8 W. and M. 1689, P. 372* ; after which the Parliament was prorogued to *April* the 2d, but dissolved by Proclamation *February* the 6th. At which Time Writs were issued for calling another to meet *March* the 20th ; in which Interval his Majesty appointed *William Cheney, Esq;* Sir *John Knatchbull, Bart.* and Sir *William Pulteney*; his Commissioners for executing the Office of Lord Privy-Seal, in the Room of the Marquis of *Hallifax*, and Sir *John Lowther, Richard Hampden, Esq;* (Chancellor of the Exchequer) *Henry Pelham, Esq;* and Sir *Stephen Fox* to be Commissioners of the Treasury.



The Second Parliament of King WILLIAM

WAS open'd at *Westminster, March 20, 1689-90*, and the Commons having chosen their Speaker, the next Day the King made his Speech to both Houses which is to be found in CHANDLER'S *History, Anno 2 W. and M. 1690, Page 373.*

April

Anno 2 Will.
III. 1690.

Amendment to
the Bill of Re-
cognition.

April 5th, A Report was made from the Committee to the whole House of the Amendments upon the Bill declaring the Acts in the last Parliament of full Force, and for recognizing their Majesties to the King and Queen, that the Committee had sat on the first enacting Clause in the Bill, and have made these Amendments therein, *viz.* In the second Sheet in the first Line, after (declared) they have added (adjudged) and in the twelfth Line they have left out the word (adjudged) and they desire the Concurrence of the House therein.

Rejected.

Then the Question was put, Whether this House agrees with the Committee in this Report? It was resolved in the Negative, Contents 30. Not content 36.

Leave having been given to any Lords to enter their Dissents, if the Question was carried in the Negative, we whose Names are hereafter written do enter our Dissents for these Reasons following :

Protest thereon.

1st, Because there appears to us no Reason to doubt of the Validity of the last Parliament, the great Objection insisted upon being the want of Writs of Summons, which we take to be fully answered by the State the Nation was in at that time, which made that Form impossible, such Exigencies of Affairs having been always looked upon by our Ancestors (however careful of parliamentary Forms) to be a sufficient Reason to allow the Authority of Parliament, notwithstanding the same, or other Defects in point of Form ; as the Parliament which set *Henry I.* and King *Stephen* on the Throne ; the Parliament held 28 *Edward I.* the Parliament summoned by the Prince of *Wales* 20 *Edward II.* the Parliament summoned 23 *Richard II.* the Parliament held 1 *Henry VI.* and the Parliament held 28 *Henry VI.* the Acts of which Parliaments have been held for Law.

2^{dly}, Because the rejecting this Clause must necessarily disturb the Minds of the greatest Part of the Kingdom, for if those be not good Laws, all Commissioners, Assessors, Collectors and Receivers of the late Taxes are not only subject to private Actions, but to be criminally prosecuted for one of the highest Offences against the Constitution of the *English* Government, *viz.* the levying Money on the Subject without lawful Authority ; all Persons who have lent Money, upon the Credit of those Laws, will be in dread of their Security, and impatient to get in their Money ; all Persons concerned in levying the present Taxes will be fearful to proceed ; all Persons who have accepted any Offices or Employments Ecclesiastical, Civil or Military, will be under the Apprehension of having incurred all the terrible Forfeitures and Disabilities of the Act of 25 *Charles II. cap. 2.* and all who have any way concurred to the Condemnation or Execution

cution of any Person upon any Act of the late Parliament, will think themselves in Danger of being called to an Account for Murder.

Anno 2. Will.
III. 1690.

3dly, Because to leave a Doubt touching the Validity of the last Parliament, is to shake all the Judgments and Decrees given in the House of Peers, or in *Westminster-Hall*, during this Reign; and to bring a Question upon the whole Course of judicial Proceedings.

4thly, Because if the Authority of the last Parliament be not put out of the Question, the Authority of the present Parliament can never be defended, for the Statute of 5 *Eliz. cap. 1.* makes the Election of every Member of the House of Commons absolutely void, if he enters into the House without taking the Oath of Supremacy, which no one Person having done, there is an End of this House of Commons: And by the Statute made 30 *Car. II.* if any Peer or Member of the House of Commons presume to sit and vote without first taking the Oaths of Allegiance and Supremacy, before the Speaker of the respective Houses, he does not only forfeit Five Hundred Pounds, and become a Popish Recusant, and disabled to take a Legacy, to hold any Office or Place of Trust, to prosecute any Suit, to be a Guardian, Executor or Administrator, but is made for ever incapable to sit and vote in either House of Parliament; and consequently this can be no Parliament, nor any who have sat in either House be capable of sitting in Parliament hereafter.

5thly, Because to leave room to doubt of the Authority of the last Parliament, is to shake the Succession of the Crown established by it, and the Credit and Authority of all Treaties made with foreign Princes and States by King *William*, as the undoubted King of these Realms; so that if the last was no Parliament, and their Acts no Law, this is our Case: The Nation is engaged in a War without the Consent of Parliament, the old Oaths of Supremacy and Allegiance remain in Force, and the Nation forced, under Colour of Law, to swear Fidelity to King *William*, though they can never act as a lawful Parliament without taking the Oaths of Allegiance to King *James*: All Judgments and Decrees in the House of Lords, during the late Parliament, are of no Force; great Sums of Money have been levied, without Consent of Parliament, and Men have been put to Death, not only without, but against Law; which is the worst sort of Murder: Lastly, the King upon the Throne, the Peerage of *England*, and the Commons freely elected by the People, have been Parties to all this: The Peers and Commons now assembled are under a perpetual Disability, and the Nation is involved in endless Doubts and Confusions, without any legal Settlement or Possibility

1690.

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ibility

Anno 2 Will. III. 1690
 ability to arrive at it, unless a Parliament be summoned by King James's Writ, and the Oaths of Allegiance taken to him.

Bolton, Macclesfield, Stamford, Newport, Bedford, Herbert, Suffolk, Monmouth, Delamer, Oxford.

The 8th, *Hodie 3^a vice lecta est Billa*, An Act for recognizing the King and Queen, and for avoiding all Questions touching the Acts made in the Parliament assembled at *Westminster* the 13th Day of February, 1688.

The said Bill
 pass'd.

The Question was put, Whether this Bill shall pass? It was resolved in the Affirmative.

Before the Question was put, several Lords desired Leave to enter their Dissents, if the Question was carried in the Affirmative.

Dissentient

Protest.

1st, Because, we conceive, that saying, (It is enacted by the Authority of the present Parliament, that all and singular the Acts made in the last Parliament were Laws) is neither good *English* nor good Sense.

2^{dly}, If it were good Sense to enact for the time past, it must be understood, on this Subject, to be the declaring of Laws to be good which were passed in a Parliament not called by Writ in due Form of Law, which is destructive of the legal Constitution of this Monarchy, and may be of evil and pernicious Consequence to our present Government under this King and Queen.

Somerſet, Rochefter, J. Fermyn, Westmoreland, H. London, W. Landaffe, Huntingdon, Abingdon, Tho. Meneu, Feverſham, P. Wincheſter, W. Aſaph, Scarſdale, Weymouth, Dartmouth, Nottingham, Wigorn.

The foregoing Reasons were ordered to be expunged, but the above may be depended upon as a genuine Copy.

The 10th, The Reasons in the Protestation made the 8th Instant against some Words in the Bill for recognizing King William and Queen Mary being read, were, upon the Question, severally ordered to be expunged out of the Journal.

Ordered to be
 expunged.

Leave having been asked and given for entering Dissents, if the Questions were carried in the Affirmative :

Dissentient

Protest thereon.

Whereas the Questions for expunging the Reasons of our Protestation April the 8th, were carried in the Affirmative : and whereas these Reasons were only against some Words in one Clause in the Bill entitled, *An Act for recognizing King William and Queen Mary, and for avoiding all Questions touching the Acts made in the Parliament assembled at Westminster the 13th Day of February, 1688, which enacted, that*

*the Acts of the late Parliament were Laws and Statutes of Anno 2 Will.
this Realm ;* III. 1690.

And Leave being given to enter our Dissents to those Reasons, we do so accordingly for these Reasons :

1st, Because it is the Privilege of the Peers to enter their Dissent, and it has been the antient Practice to enter also the Reasons of such Dissent, of which the Lords, that so protest, are the most proper Judges, as well knowing what Arguments perswaded them to be of that Opinion ; and no Reasons can be more proper than such as they conceive are founded upon Matter of Fact and the Law of the Land.

2^{dly}, Because there is no other Precedent of expunging the Reasons of any Protestation.

3^{dly}, Because the Protestation was not against the whole Bill, but some particular Words of it ; but by expunging the Reasons of that Protestation it appears that we have protested against the whole Bill, which is contrary to our Sense and Intentions.

*Nottingham, J. Fermyn, H. London, Tho. Menev', Ed.
Wigorn', P. Winchester, Hum. Bangor, Westmoreland,
Cbandas, Abingdon, W. Asaph.*

The 13th, The Report was made from the Committee of Report of al-
the whole House upon the Bill for reversing the Judgment in a-
Quo Warranto against the City of London, and for restoring of London far-
the City to its antient Rights and Privileges, That the Com-
mittee had thought fit (upon the Council desiring it) to
allow further Time for the said City to be heard by their
Council.

And after Debate, the Question being put, Whether to agree with the Committee in allowing them longer Time,

It was resolved in the Negative, Contents 42, Proxies 2 ; Not agreed to.
in all 44. Not content 40, Proxies 7 ; in all 47.

Leave having been given to any Lords to dissent, if the Question was carried in the Negative, we whose Names are hereafter written, do protest to the said Question in the Reasons following :

1st, Because it seems very hard, that a further Time of Protest thereon.
Preparation should not be allowed in a Case of the highest
Importance, to which the City, by their whole representa-
tive Body, had desired to be heard, especially several Lords
having informed the House on their Behalf, that the Time
granted them was not sufficient to instruct their Council, who,
at the Bar, did also desire a further Day to be able to speak
to such important Points, declaring themselves not sufficient-

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Anno 1 Will.
III. 1690.

ly prepared, having their Instructions but late the Night before.

2dly, Because of how much greater Moment any thing is, so much the greater Deliberation and Advice ought to be had upon it; and this is of such high Importance, that it not only concerns the City of *London*, but all the Corporations in *England*, that are by Prescription, and, in Consequence, the Legislative of this Government.

Cornwallis, Macclesfield, J. Bridgewater, Monmouth, Bath, Manchester, Devonshire, Clifford, J. Lovelace, Bolton, Bedford, Clare, Carteret, Herbert, P. Wharton, Newport, Montagu, R. Sydney, Stamford, Vaughan, Warington, Offulstone, R. Eure, Oxford, Dorset, Granville.

The 20th, Their Lordships sent down a Message to the Commons, relating some Expressions, which gave Umbrage to that House: See CHANDLER's *Hist. Anno 2 W. and M. 1690, Page 383*; and in the same Page the King's Speech at putting an End to the Session.

His Majesty soon after set out for *Ireland*, where the Battle of the *Boynes* paved the way for the Reduction of that Kingdom.

September the 9th, The King returned to the Queen at *Windfor*; and three Days after both Houses met, and were prorogued by Commission till October the 2d, when



The SECOND SESSION

WAS opened with a gracious Speech from the Throne, (to be found in CHANDLER's *Hist. Anno 2 W. and M. 1690. Page 384.*) on which Occasion the Lords presented an Address, in which they declared, That being extremely sensible of the great Benefit and Advantage that his Majesty's late Expedition into *Ireland* had procured to all his Subjects in general, as likewise that the Success of his Majesty's Arms in that Kingdom was due, next to the Providence and Blessing of God, to his Majesty's personal Valour and Conduct, did look upon it as their Duty to present their humble and hearty Thanks to his Majesty, for all those signal Evidences he had given of his extraordinary Affection for his People, which had carried his Majesty in so many Occasions to venture a Life that was so dear to them, and to despise all Hazards to procure the Settlement of his Kingdoms, the Peace and Quiet of his Subjects, and the Establishment of their Religion. And as it was not possible but

Lords Address to
the King.

' but so much Bravery of Mind, such an undaunted Cou- Anno 3 Will.
 ' rage, and a Heart so exalted above any Apprehensions in III. 1694
 ' the midst of all Dangers, must gain his Majesty the Ad-
 ' miration and Reverence of all the World, and even of his
 ' Enemies themselves, who had felt the Effects of so great
 ' Virtues, so they did not doubt but that such extraordinary
 ' Qualities must unite the Hearts of his People in such a
 ' Tenderness, as well as Duty, for his Royal Person, as was
 ' necessary for the finishing what his Majesty had so glori-
 ' ously begun.

' The next Day their Lordships acknowledged the great And to the
 ' Advantage the Nation had received by the eminent Re, Queen.
 ' solution, as well as Prudence, her Majesty had shewed in
 ' the Absence of the King, and in such Circumstances of
 ' Difficulty as would have discomposed a Mind that had not
 ' been raised above them, as her Majesty had approved her's
 ' to be, by this undeniable Evidence: And declared, that
 ' her Majesty having preserved the Quiet and Peace, by her
 ' prudent Administration against the Dangers threatened by
 ' a powerful Enemy, the Remembrance of such extraordi-
 ' nary Virtue must ever dwell in their Minds, and engage
 ' them in Justice, upon all Occasions, to express their Gra-
 ' titude, as became her Majesty's most dutiful Subjects.'

October 30. *Hodie 3^a vice lecta est Billa*, An Act con- AdmiraltyCom-
 concerning the Commissioners of the Admiralty. missioners Bill

The Question being put, Whether this Bill shall pass into passed.
 a Law?

It was resolved in the Affirmative, Contents 25 : not Con-
 tents 27.

Leave having been given to any Lords to enter their Dis-
 sents, if the Question was carried in the Affirmative, these
 Lords following do enter their Dissents in these Reasons :

1st, Because this Bill gives a Power to Commissioners of the Admiralty to execute a Jurisdiction which, by the Act of
 13 Car. II. entitled, *An Act for establishing Articles and Or- Proteft thereon.*
 ders for the regulating and better Government of his Majesty's
 Navy Ships of War and Forces by Sea, we conceive they had
 not ; whereby the Earl of * Torrington may come to be tried
 for his Life, for Facts committed several Months before this
 Power was given or desired : We think it reasonable, that
 every Man should be tried by that Law that was known to
 be in Force when the Crime was committed.

2^{dly}, It is by virtue of the said Act of 13 Car. II. that
 the Earl of Torrington was judged by this House not to have
 the

* Arthur Herbert, Esq; created Baron of Torbay and Earl of Torrington, May 29, 1689.

Anno 2 Will.
III. 1690.

the Privilege of a Peer of this Realm for any Offences committed against the said Act ; and there is no other Law, as we conceive, by which the said Earl could have been debarred from enjoying the Privilege of a Peer of this Realm ; which Act making no mention of Commissioners of the Admiralty, but of a Lord High Admiralty only, by whose Authority all the Powers given by that Act are to be exercised, and without whose Consent singly, no Sentence of Death can be executed, we think it of dangerous Consequence to expound a Law of this capital Nature otherwise than the literal Words do import ; and, as we conceive it without Precedent to pass even explanatory Laws, much less such as have a Retrospect in them, in Cases of Life and Death, so we think it not at all necessary to make such a Precedent at this Time, there being an undoubted legal way already established to bring this Earl to a Trial by a Lord-High-Admiral.

3dly, The Judges having unanimously declared, that the Law Marine was no where particularized in their Books, whereby the Power or Jurisdiction of the Lord High Admiral may be ascertained, so that the Practice is all that we know of it, we conceive it unprecedented and of dangerous Consequence, that the Jurisdiction exercised by the Lord High Admiral should, by a Law, be declared to be in the Commissioners of the Admiralty, whereby an unknown, and therefore unlimited Power, may be established in them.

Rivers, Huntingdon, Rochester, Weymouth, Stamford, Dartmouth, Oxford, Macclesfield, Tho. Roffen, Crewe, Bath, Granville, Herbert, Craven, J. Exon, Bolton, J. Bridge-water.

Report concern-
ing Impeach-
ments.

The 30th, Report was made from the Committee appointed to inspect Precedents, whether Impeachments continue in *Statu quo* from Parliament to Parliament, of several Precedents brought from the *Tower*.

After the Consideration of which Precedents, and others mentioned in the Debate, and reading the Orders made the 19th of *March*, 1678-9. and the 22d of *May* 1685, concerning Impeachments ; and after long Debate thereupon and several Things moved,

Lords Salisbury
and Peterborow
discharged from
their Bail.

The Question was put, Whether * *James Earl of Salisbury* and *Henry Earl of Peterborough* shall be now discharged from the Bail ?

It was resolved in the Affirmative.

* The Crime these Lords were charged with was being reconciled to the Church of Rome.

Leave

Leave being given to any Lords to enter their Dissents, *Anno 2 Will. III. 1690.*
in these Reasons :

1st, Because, we conceive, it is a Question not at all relating to the real Debate before us, but urged upon us, not for the sake only of the two Lords mentioned. *Protest thereon.*

2^{dly}, Because we ought to have examined Precedents of Pardons, to see how far an Impeachment was concerned, before we had adjudged the Lords discharged, or whether an Impeachment could be pardoned without particular Mention in an Act of Grace, and what Difference there is between an Act of Grace and an Act of Indemnity.

3^{dly}, Because we did not hear the House of Commons, who are Parties, and who, in common Justice, ought to have been heard before we had passed this Vote.

Bolton, Stamford, Bath, North and Grey, Granville, Herbert, J. Bridgewater. Macclesfield.

* November 25th, his Majesty gave the Royal Assent to several Acts, and at the same time made a Speech, which see CHANDLER's Hist. Anno 2. W. and M. 1690, Page 387.

January 1st, *Hodie 3^a vice lecta est Billa*, An Act for incorporating the Proprietors of the Water-house in *York-Buildings* *York-Buildings* *Water-Works* *Bill pass'd.*
ings, and for the encouraging, carrying on, and settling the said Water.

The Question was put, Whether this Bill shall pass into a Law? It was resolved in the Affirmative.

Dissentient

1st, Because there is, in this Act, an arbitrary Allowance left to the Proprietors to exact what Fines or yearly Rents they please for serving the Inhabitants with the said Water. *Protest thereon.*

2^{dly}, And that there is no Provision in the said Act, that the Proprietors shall engage for the making good the said Leases, and assuring the Inhabitants they shall not want Water, nor any to apply to for Relief, in case the Inhabitants are injured for want of Water, or by any unreasonable Exactions of the Proprietors.

Offusstone.

January 5th, the King put an End to the Session with a Speech, (to be found in CHANDLER's Hist. Anno 2. W. and M. 1690-91. Page 388) and set out the next Day for *Holland*, *Session closed* *and the King* *sets out for* *Holland.*
but was prevented by a strong Easterly Wind from Sailing till the 16th, two Days after which he arrived at the *Hague*, *The grand Con-*
where the Electors of *Brandenburg*, and *Bavaria*, the Dukes of *Lunenburgh*, the Landgrave of *Hesse*, the Duke of *Zell*, the Duke

* The 15th of this Month the King made Lord Godolphin first Commissioner of the Treasury.

Anno 2 Will.
III. 1690.

His Majesty's
Speech at the
opening thereof.

Duke of *Wolfenbittel*, the Prince of *Commerci*, the Prince of *Wirtemberg*, Prince *Waldec*, the Marquis *de Gassanaga* Governor of *Flanders*, the Count *de Windisgratz* the Emperor's Plenipotentiary, the Count *de Prela Doria* Envoy Extraordinary from the Duke of *Savoy*, the Ministers of the Elector *Palatine*, of the Electors of *Saxony*, *Mentz*, *Triers*, and *Cologne*, and of several other Princes being also there in order to preserve the Liberties of *Europe*, his Majesty represented to them :
 " That the imminent Dangers they found themselves in, sufficiently discovered the Errors that had been committed, so that he needed not to use any Arguments to shew them the Necessity of taking more just and better Measures ; that, in the Circumstances they were in, it was not a Time to deliberate, but act ; that the Enemy was Master of all the chief Fortresses that were the Barrier of the common Liberty ; and that he would quickly possess himself of all the rest, if a Spirit of Division, Slowness, and particular Interest continued among them. That every one ought to remain persuaded, that their respective particular Interests were comprized in the general one ; that the Enemies Forces were very strong, and that they would carry Things like a Torrent before them. That it was in vain to oppose Complaints and fruitless Clamours, or unprofitable Protestations against Unjustice ; that it was neither the Resolution of a barren Diet, nor the Hopes of some Men of Fortune, arising from frivolous Foundations, but Soldiers, strong Armies, and a prompt and sincere Union between all the Forces of the Allies that must do the Work ; and that these two must be brought to oppose the Enemy without any Delay, if they would put a stop to his Conquests, and snatch out of his Hands the Liberty of *Europe*, which he held already under a heavy Yoke. Concluding, That, as for himself, he would neither spare his Credit, Forces, nor Person, to concur with them in so just and necessary a Design ; and that he would come in the Spring at the Head of the Troops, faithfully to make good his Royal Word, which he had so solemnly engaged to them."

Resolution taken thereon.

This Speech from a Prince, to whom all the Persons that composed that illustrious Assembly paid a respectful Defe-
 rence, and in whose Judgment and Experience they entirely
 confided, could not but produce the desired Effect ; and
 thereupon it was resolved that * 222,000 Men should be
 employed

* The Emperor was to furnish 20,000 Men. The King of Spain in
Flanders, 20 000. The King of England 20.000. The States-General
 35,000. The Duke of *Savoy*, and the Troops of *Milan*, 20,000. The
 Elector of *Bavaria* 18,000. The Elector of *Saxony* 22,000. The

2

Lead-

employed against *France*. The *German Princes* having been several times magnificently treated, not only by his Majesty, but likewise by my Lord Steward, and the other *English Peers*, they separated † with mutual Satisfaction, and the King prepared to return Home.

Anno 3 Will.
& M. 1691.

But, notwithstanding this pompous Introduction to the Year, the Reduction of *Ireland* by General *Ginkle*, was what rendered it most remarkable; nothing very material having been performed in *Flanders*, whence the King returned a second time (after having spent two Months in Hunting) October the 21st; and the 22d opened

The THIRD SESSION of his Second Parliament

WITH a Speech to both Houses, which see in CHANDLER'S *Hist. Anno 3 W. and M. 1691*; Page 389; as likewise the remarkable Controversy between the two Houses, on the Bill for regulating Trials in Cases of High Treason, Page 393.

February the 16th, After Debate on what had been offered by Council and Witnesses in relation to the Bill for dissolving the Marriage of the Duke of *Norfolk* with his Duchess.

Bill to dissolve the Duke of Norfolk's Marriage.

The Question was put, Whether Proxies shall be used in the Proceedings on this Bill of the Duke of *Norfolk's*? It was resolved in the Negative.

Question concerning Proxies carried in the Negative.

Dissentient'

1st, Because it is an inherent Right of the Peers of *England* to be summoned to Parliament, and when they cannot attend in Person, to be represented by their Proxies; and no Vote of the House of Lords alone can take away that Right, which is established by the fundamental Law of our Constitution.

Protest thereon.

2^{dly}, If that such a Vote could abolish this Right, yet it was against the Rules of Justice to make it without hearing the Persons interested in it, especially the Number being very great.

3^{dly}, If such a Vote might be made, yet it was unreasonable for those Lords, who were against Proxies, to make use

1691.

F f f

of

Landgrave of Hesse 8000. The Circle of Suabia and Franconia 10,000. The Duke of Wirtemberg 6000. The Elector of Brandenburg 20,000. The Prince of Liege 6000. The Bishop of Munster 7000. The Elector Palatine 4000. The Princes of Lunenburg 16000. In all 222,000.

† About the Middle of March, N. S.

Anno 3 Will.
& M. 1691.

of Proxies in the previous Question, which was, in effect, to make the Lords concerned to vote against themselves.

Bolton, Mulgrave, Nottingham, Westmoreland, J. Rivers, Stamford, Chesterfield, Lexington, Essex, Willoughby, Radnor, J. Bridgwater, Derby, Berkeley, S. Culpeper, Sandwich, Effingham, Lucas.

Proceedings on
the Poll-Bill.

The 23d, the House went into Consideration, and proceeded on the Bill, entitled, *An Act for raising Money by a Poll payable Quarterly for one Year, for the carrying on a vigorous War against France.*

The Earl of *Mulgrave* reported from the Lords Committees appointed to consider of Expedients for the Reservation of the Privileges of this House, in reference to the Poll-Bill, some Proceedings agreed on by them therein; and after Consideration thereof,

The House was adjourned during Pleasure, and put into a Committee upon the said Bill; and after some Time spent in the said Committee,

The House was resumed, and the Lord *Godolphin* reported, That the Committee had gone through the Bill without any Amendment, and that the Committee think fit, there should be some Entry made in the Book upon occasion of passing the last Clause in the Bill. Then the said Bill being read a third Time,

Which is passed The Question was put, Whether this Bill shall pass? It was resolved in the Affirmative.

Leave having been asked and given for any Lords to dissent, if the Question was carried in the Affirmative, these Lords do dissent for the Reasons following:

Protest thereon. Because the Substance of the Proviso added at the end of the Bill, for taking the Accounts of the public Moneys, hath been in a Bill by itself this present Session of Parliament, which, having not passed through the two Houses by reason of their Disagreement upon some Amendments offered by the Lords to the said Bill, ought not, by the known and constant Methods of Proceedings, to be brought in again in the same Session, and consequently, we conceive, the tacking of the said Proviso to this Poll-Bill is unparliamentary, highly prejudicial to the Privileges of the Peers, and may be of dangerous Consequence to the Prerogative of the Crown.

St. Albans, Derby, Jo. Oxon', Rochester, Aylesbury, T. Feryn, Scarfdale.

Question whether an Entry shall be made, passed in the Affirmative.

Then the Question was put, Whether there shall be an Entry made in the Book upon occasion of passing the last Clause in the said Bill?

It was resolved in the Affirmative. Contents 28; Not contents 18.

Leave

Leave having been asked and given for any Lords to dissent, if the Question was carried in the Affirmative, these Lords do dissent for the Reasons following: Anno 3 Will. & M. 1691.

Because, we conceive, that an Entry on the Journal of this House, to excuse the complying at this time in a thing so unparliamentary, as the Matter now in Question is, upon the Account of the present Necessity or Danger, how pressing or imminent soever, will be of no Force to prevent the doing the same, when the like Necessity or Danger may be pretended; but the consenting once to such unprecedented Proceedings may always be made use of, as one Argument more for the agreeing to them for the future. Protest thereon.

St. Albans, Derby, Jo. Oxon', Rochester, Aylesbury, T. Jermyyn, Scarsdale.

For the King's Speech at the Close of the Session, see Session closed. }
CHANDLER'S *Hist. Anno 4 W. and M. 1692. Page 407.*

On the 1st of March his Majesty bestowed Marks of his Promotions. Royal Favour on some Persons, who had either expressed their Zeal for his Service in the late Session of Parliament, or from whom he expected a grateful Return at the next Meeting of that great Assembly. The Earls of Rochester and Ranelagh, the Lord Cornwallis, and Sir Edward Seymour, were admitted to their Majesties Privy Council. The Earl of Bedford was made Lord Lieutenant of the County of Middlesex, and the Earl of Pembroke, Lord-Keeper of the Privy-Seal; his Place of Commissioner of the Admiralty being bestow'd on the Lord Cornwallis. And Sir John Lowther, Vice-Chamberlain of his Majesty's Household, and Thomas Pelham, Esq; having resign'd their Places, as Commissioners of their Majesties Treasury, the same were dispos'd of, the one to Sir Edward Seymour, and the other to Charles Montagu, Esq; who had lately signaliz'd his Zeal for the Government, in the House of Commons. Two Days after, the Lord Viscount Sidney, one of their Majesties principal Secretaries of State, exchanged the Seals for a Patent, whereby he was constituted Lord Lieutenant of Ireland. His Majesty having thus settled Affairs at Home, embark'd for Holland on the 5th of March.

The Sea-Fight of *La Hogue*, the taking of *Namur* by the Affairs Abroad. French King in Person, the Battle of *Steenkirk*, and the breaking out of an Assassination-Plot, were the principal Feats that happen'd between the Sessions. October the 18th, the King landed at *Yarmouth* from *Holland*, and Nov. the 4th,

Anno 4 Will.
& M. 1692.

The FOURTH SESSION

WAS opened at *Westminster* with a Speech from the Throne, which see in CHANDLER's *History*, Anno 4 W. and M. 1692, Page 408.

Dec. the 7th, The House having been in a Committee of the whole House in order to the giving Advice to his Majesty, and considering the Papers brought in by the Earl of *Nottingham*; and being resumed,

The Question was put, Whether this House shall now send to the House of Commons for a Conference, and to propose to them, that a Committee of both Houses should be appointed to consider of the present State of the Nation, and what Advice to give his Majesty upon it?

Question for a
Conference,
passed in the
Negative.

It was resolved in the Negative: Contents 36, Not contents 48.

Leave having been asked and given, that some Lords might protest, if the abovesaid Question was carried in the Negative, these Lords whose Names are underwritten do enter their Protestation in the Reasons following :

1st, Because his Majesty, having particularly and expressly defined the Advice of his Parliament at this time, when he so much seems to need it, no other Method was, or, in our Opinions, could be proposed, by which the two Houses might so well and so speedily be brought to that Concurrence, which is necessary to render their Advice effectual.

Protest thereon.

2^{dly}, Because it appears by some Papers already imparted to this House, that several Members of the House of Commons are concerned in the Matters before us, as having been so lately employed in his Majesty's Service; and we conceive it the easiest, properest and fairest Way of Communication between the two Houses, to have so great and important a Business transacted and prepared in a Committee so chosen.

3^{dly}, Because it cannot be expected, that so many Members of the House of Commons, from whom we shall need Information, can, in any other Manner, be here present so often, tho', with the Leave of their House, as will be necessary for a sufficient Enquiry into the several Affairs now under Consideration.

4^{thly}, Because if the House of Commons intend also to give Advice to his Majesty, 'tis very probable that both Houses of Parliament may receive such Information severally, as will be thought fit to be communicated as soon as possible; and we conceive no way of doing that can be so proper or speedy as in a Committee of both Houses.

5^{thly}, Be-

5thly, Because in a Time of such imminent Danger to the Nation, by reason of so many Miscarriages as are supposed generally to be committed, the closest and strictest Union of both Houses is absolutely necessary to redeem us from all that Ruin, which, we have too much Cause to fear, is coming upon us.

Anno 4 Will.
& M. 1692.

Shrewsbury, Stamford, Monmouth, Crewe, Torrington, Granville, Marlborough, Aylesbury, Cholmondeley, Mulgrave, Cornwallis, Vaughan, De Longueville, Montagu, Bath, Macclesfield, Warrington, Fitzwalter.

The 22d a Bill touching free and impartial Proceedings in Parliament, was sent up from the Commons, in which several Persons in Employments both Military and Civil, were incapacitated to sit in the House of Commons, which caused it to be very much oppos'd by the Lords that stood up for the Court; tho', on the other hand, several Peers spoke vehemently for it, and among the rest the Earl of *Mulgrave*; who upon this Occasion made the following memorable Speech.

Bill touching
free and impar-
tial Proceedings
in Parliament.

My Lords,

' This Debate is of so great Consequence that I resolved to be silent, and rather to be advis'd by the Ability of others, than to shew my own want of it; besides it is of so nice a Nature, that I, who speak always unpremeditatedly, apprehend extremely saying any thing which may be thought the least reflecting; tho' even that ought not to restrain a Man here from doing one's Duty to the Public, in a Business where it seems to be so highly concern'd.

Earl of Mul-
grave's Speech
thereon.

' I have always heard, I have always read, that foreign Nations, and all this Part of the World have admir'd and envied the Constitution of this Government. For, not to speak of the King's Power, here is a House of Lords to advise him on all important Occasions, about Peace or War, about all things that may concern the Nation, the Care of which is very much entrusted to your Lordships. But yet, because your Lordships cannot be so conversant with the generality of the People, nor so constantly in the Country as is necessary for that Purpose, here is a House of Commons also chosen by the very People themselves newly come from among them, or should be so, to represent all their Grievances, to express the true Mind of the Nation, and to dispose of their Money, at least so far as to begin all Bills of that Nature; and, if I am not mistaken, the very Writ for Elections sent down to the Sheriffs does empower them to chuse; What? Their Representatives.

' Now,

Anno 4 Will.
& M. 1692.

‘ Now, my Lords, I beseech you to consider the Meaning of that Word, *Representatives* ; is it to do any thing contrary to their Mind ? It would be absurd to propose it : And yet how can it be otherwise, if they, after being chosen, change their Dependency, engage themselves in Employments plainly inconsistent with the great Trust repos’d in them ? And that I will take the Liberty to demonstrate to your Lordships they now do, at least according to my humble Opinion.

‘ I will instance first in the least and lowest Incapacity, they must be under, who so take Employments.

‘ Your Lordships know but too well what a general Carelessness there appears, every Day more and more, in the public Business ; if so, how is it likely that Men should be as diligent in their Duty in Parliament as that Business requires, where Employments, and a great deal of other Business shall take up both their Minds and their Time.

‘ But then in some Cases ’tis worse, as in Commands of the Army, and other Employments of that kind, when they must have a divided Duty : For it does admirably become an Officer to sit voting away Money in the House of Commons, while his Soldiers are perhaps taking it away at their Quarters, for want of his Presence to restrain them, and of better Discipline among them ; nay, perhaps his Troop or Regiment may be in some Action Abroad, and he must either have the Shame of being absent from them at such a Time, or from that House where he is entrusted with our Liberties.

‘ To this I have heard but one Objection by a noble Lord, that if this Act should pass, the King is not allow’d to make a Captain a Colonel, without disabling him to sit in Parliament.

‘ Truly, if a Captain has only deserv’d to be advanced for exposing himself in Parliament, I think the Nation would have no great Loss in the King’s letting alone such a Preferment.

‘ But, my Lords, there is another Sort of Incapacity yet worse than this, I mean that of Parliament-Men’s having such Places in the Exchequer, as the very Profit of them depends on the Money given to the King in Parliament.

‘ Would any of your Lordships send and entrust a Man to make a Bargain for you, whose very Interest shall be to make you give as much as he can possibly ?

‘ It puts me in mind of a Farce, where an Actor holds a Dialogue with himself, speaking first in one Tone, and then answering himself in another.

‘ Really,

‘ Really, my Lords, this is no Farce, for ’tis no laughing Matter to undo a Nation : But ’tis altogether as unnatural for a Member of Parliament to ask first in the King’s Name for such a sort of Supply, give an Account from him how much is needful towards the paying such an Army, or such a Fleet, and then immediately give by his ready Vote what he had before asked by his Master’s Order.

A and 4 Will.
& M. 169a.

‘ Besides, my Lords, there is such a Necessity now for long Sessions of Parliaments ; and the very Privileges belonging to Members are of so great Extent, that it would be a little hard and unequal to other Gentlemen that they should have all the Places also.

‘ All the Objections that have been made may be reduced to these :

‘ First, ’Tis told us, that ’tis a Disrespect to the King, that his Servants or Officers should be excluded.

‘ To this, I desire it may be consider’d, that ’tis in this Case, as when a Tenant sends up any Body to treat for him : Would any of your Lordships think it a Disrespect ; nay, would the King himself think it any, if the Tenant would not wholly refer himself to one of your own Servants, or the King’s Commissioners in the Case of the Crown ? And if he chuses rather some plain, honest Friend of his own to supply his Absence here, will any Man blame such a Proceeding, or think it unmannerly ?

‘ Besides, your Lordships know even this Act admits them to be chosen, notwithstanding their Employments, provided the Electors know it first, and are not deceived in their Choice.

‘ All we would prevent is, that a good rich Corporation should not chuse to entrust with all their Liberties a plain honest Country Neighbour, and find him within six Months changed into a preferred, cunning Courtier ; who shall tie them to their Choice, tho’ he is no more the same Man, than if he were turned Papist, which by the Law, as it stands already, puts an Incapacity upon him.

‘ Another Objection is, that this Act may by its Consequence prolong this Parliament, which they allow would be a very great Grievance, and yet suppose the King capable of putting it upon us, which I have too much Respect for him to admit of ; tho’ I am glad however, that it is objected by Privy-Counsellors in Favour, who consequently, I hope, will never advise a Thing which they now exclaim at as so great Grievance.

‘ But pray, my Lords, what should tempt the King to so ill a Policy ? Can he fear a Freedom of Choice in the People, to whose good Will he owes all his Power, which these Lords suppose he may use to their Prejudice ?

‘ And

Anno 2 Will.

2 M. 1692.

And therefore give me leave to say, as I must not suspect him of so ill a Design as the perpetuating this Parliament, so he cannot, he ought not to suspect a Nation so entirely, I was going to say; so fondly devoted to him.

My Lords, no Man is readier than myself to allow that we owe the Crown all Submission as to the Time of calling Parliaments according to Law, and appointing also where they shall sit. But, with Reverence be it spoken, the King owes the Nation entire Freedom in chusing their Representatives; and it is no less his Duty, than it is his true Interest, that such a fair and just Proceeding should be used towards us.

Consider, my Lords, of what mighty Consequence it may be, that so many Votes should be free, when 'upon one single one may depend the whole Security or Loss of this Nation. By one single Vote such Things may happen, that I almost tremble to think: By one single Vote a General Excise may be granted, and then we are all lost: By one single Vote the Crown may be empowered to name all the Commissioners for raising the Taxes, and then surely we should be in a fair way towards it.

Nay, whatever has happened may again be apprehended; and I hope those reverend Prelates will reflect, that if they grow once obnoxious to a prevalent Party, one single Voice may be as dangerous to that Bench, as a general Dissatisfaction among the People proved to be once in a late Experience: Which I am far from saying by way of Threatning, but only by way of Caution.

My Lords, we may think because this concerns not the House of Lords, that we need not be so over careful of the Matter; but there are Noblemen in *France*, at least such as were so before they were enslaved, who, that they might domineer over others, and serve a present Turn perhaps, let all Things alone so long till the People were quite mastered, and the Nobility themselves too, to bear them Company.

So that I never met a *Frenchman*; even of the greatest Rank, (and some had 10,000 Pistoles a Year in Employments) that did not envy us here for our Freedom, from that Slavery which they groan under; and this I have observed universally, excepting just Monsieur de *Louvois*, Monsieur *Colbert*, or such People, because they were the Ministers themselves who occasioned these Complaints, and thrived by the Oppression of others.

My Lords, this Country of ours is very apt to be provoked; we have had a late Experience of it; and tho' there is no wise Man but would bear a great deal rather than make a Bustle, yet really the People think otherwise, and, at any time, would change a present Uneasiness for any other Condition, tho'

tho' a worfe ; we have known it fo too often, and sometimes repented it too late.

Anno 4 Will.
& M. 1692.

' Let them not have this new Provocation, in being debarred from a Security in their Representatives ; for malicious People will not fail to infuse into their Minds, that all those vast Sums, which have been, and still muſt be raiſed towards this War, are not diſpoſed away in ſo fair a manner as ought to be : And I am afraid they will ſay, their Money is not given, but taken.

' However, whatever Succeſs this Bill may have, there muſt needs come ſome good Effect of it : For if it paſſes, it will give us Security ; if it be obſtructed, it will give us warning.'

The Courtiers however, being too numerous, (Contents The Bill paſs'd 42, Proxies 3. Not Contents 40, Proxies 7 ; Majority 2.) the other Party took an Occaſion from an Objection they made (to wit, that this Act might by its Conſequence prolong this Parliament, which they allowed would be a very great Grievance) to bring in and paſs another Bill, for the frequent calling and meeting of Parliaments ; which they ſent down to the Commons, *January* the 21ſt, for their Concurrence. But the King having no mind to part with this Parliament ſo long as the War laſted, reſuſed his Aſſent to this Bill, altho' the Lords had agreed to the Amendments made to it by the Commons. We muſt nor, however, forget that, *January* the 3d, when the Negative was put on the firſt of thoſe Bills, the diſſenting Lords entered the following Proteſt :

1ſt, Becauſe the principal Objection made to this Bill Proteſt thereon, was the great Danger that might happen thereby, of the too long continuing this preſent Parliament, which is an ill Conſequence that we can no ways apprehend, ſince we hope and humbly conceive, his Maſteſty will never be capable of taking any Advice of that kind, ſo plainly deſtructive to the Subjects juſt Rights of Election to frequent Parliaments, and ſo many Ways inconfiſtent with the Good of this Nation.

2dly, Becauſe we are not only very ſenſible of the juſt Occaſion given for ſuch an Act (tho' we are loath to enlarge upon ſo tender a Subject) but have good Reaſon to believe the Houſe of Commons would not have begun and paſſed a Bill of this Nature, wherein the Members of that Houſe are ſo particularly concerned, without having been fully ſatiſfied in the Reaſons for it, and plainly convinced of that great Need the People of *England* are in, at this time, of ſo juſt and wiſe a Provision.

1692.

G g g

Warrington,

Anno 4 Will.
& M. 1692.

Warrington, Thanet, * De Longueville, Weymouth, Montagu, Denbigh, Fitzwalter, Cumberland, Rivers, Vaughan, Sandwich, Clifford, Stamford, J. Arundell, Mulgrave, Marlborough, † Cholmondeley, Carnarvon, Aylesbury, Ashburnham.

The 24th, The Lords came to a Resolution, *That the † Assertion of King William and Queen Mary's being King and Queen by Conquest, was highly injurious to their Majesties, and inconsistent with the Principles on which this Government is founded, and tending to the Subversion of the Rights of the People.*

Trial of Lord
Mohun.

The 31st, The Lords having been in || Westminster-Hall, on the Trial of the Lord Mohun, for the Murder of Mr. Mountford, and heard Evidence on both Sides, and being returned to their House,

The Question was put, Whether the House shall go on ? It was resolved in the Negative ; Contents 30 ; Not Contents 50.

Dissentient

Protest thereon.

Because it may be of dangerous Consequence in Cases of Blood.

Somerset, Dorset, Devonshire, Scarborough, Mulgrave, Cornwallis, Northumberland, Pembroke, Norfolk, Bedford, Shrewsbury, Westmoreland, Arundell, Monmouth, Huntington, Halifax, J. Bridgewater, Kent, Laxwarr, Radnor.

Bill for reviving
certain Laws.

March the 8th, *Hodie 3^a vice lecta est Billa*, entitled, An Act for reviving, continuing and explaining several Laws therein mention'd.

The Question was put, Whether this Bill shall pass ?

It was resolved in the Affirmative.

Dissentient

Protest thereon.

Because the following Provisoos were not admitted. *Provided always, That no Speech shall be made in the House or Houses of any of the Peers of this Realm, by virtue of the said Act*

* Harry Lord Grey of Ruthen, created Viscount de Longueville, April 25, 1680.

† Hugh Lord Cholmondeley of Ireland, made Baron Cholmondeley of Nantwich in Cheshire, April 15, 1609.

‡ Occasion'd by an insolent Pamphlet, entitled, King William and Queen Mary Conquerors, and a Pastoral Letter of Bishop Burnet's.

|| On this Occasion the Marquis of Carmarthen, Lord President of their Majesty's Privy Council, being constituted Lord High-Steward of England, pro hac vice. The Court was opened and held with the usual Ceremony, and the Trial lasted from Twelve till near Six o'Clock in the Afternoon, when the Peers adjourned to their own House. Five Days after, their Lordships declared their Judgment seriatim, and by a great Majority the Lord Mohun was acquitted of the said Murder,

All of Printing, without Oath being first made, any thing herein to the contrary thereof in any wise notwithstanding.

Anno 4 Will.
& M. 1692.

Provided always, and be it enacted by the Authority aforesaid, That if the Names of the Printer and Author of any Book be affixed to, and printed in the same Book, that then, and in such Case, it shall not be necessary to take out a Licence for the Printing the said Book.

And we conceive, that the Benefit which may accrue to the Public by the Continuance of several Acts mentioned in the Bill, will not countervail the Prejudice there may be in many respects by rejecting the aforesaid Clauses, which we offer'd as Amendments to the Bill for preventing Abuses in publishing seditious, treasonable, and malicious Books and Pamphlets, and for regulating of Printing and Printing-Presses.

Because it subjects all Learning and true Information to the arbitrary Will and Pleasure of a mercenary, and, perhaps, ignorant Licensor, destroys the Properties of Authors in their Copies, and sets up many Monopolies.

Mulgrave, Hunsdon, Halifax, Offulstone, Macclesfield, Granville, Vaughan, Shrewsbury, Lincoln, Stamford, Marlborough.

On the 14th, His Majesty came to the House of Peers' Parliament pro- and after giving the Royal Assent to several Bills, and making a * Speech prorogued the Parliament.

During the Session the King conferr'd upon Sir J. Trevor, Promotions, Speaker of the House of Commons, and first Commissioner of the Great Seal, the Office of Master of the Rolls, in the Place of Henry Powle, Esq; deceas'd; and about a Month after, his Majesty thought fit to lay aside Admiral Russel, and to put the chief Command of the Fleet into the Hands of Henry Killgrew, Esq; Sir Ralph Delaval, and Sir Cloudsley Shovel, and afterwards to appoint George Rook, Esq; to be Vice-Admiral of the Red; the Lord Berkley, Vice-Admiral of the Blue; Colonel Matthew Aylmer, Rear-Admiral of the Red; and David Mitchell, Esq; Rear-Admiral of the Blue: And on the 23d of March, Sir John Trenchard was sworn one of their Majesties principal Secretaries of State, in the Place of the Earl of Nottingham; whose Removal, as well as that of Admiral Russel, was occasion'd by the warm Debates that had pass'd in Parliament about their Conduct after the Victory at Sea; King William expressing himself, in relation to his Officers, as *Julius Cæsar* had with respect to his Wife; *That 'twas not enough for them to be faithful, but that they must be free from Suspicion.* The same Day his Majesty committed the Custody of the Great Seal of England to Sir John Somers;

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* See CHANDLER's History, Anno 4 W. and M. 1692, Page 414.

Anno 4 Will.
& M. 1693.

Somers; whose Office of Attorney-General was bestow'd upon *Edward Ward*, of the *Inner Temple*, Esq. At the same time his Majesty order'd a new Commission to pass under the Great Seal, constituting Sir *John Lowther*, *Henry Priestman*, Esq; the Lord Viscount *Falkland*, *Robert Austen*, Esq; Sir *Robert Rich*, *Henry Killigrew*, Esq; and Sir *Ralph Delaval*, to be Commissioners for executing the Office of Lord High-Admiral of England. Having thus settled domestic Affairs, the King went to *Harwich*, in order to embark for *Holland*, but the Wind proving contrary, his Majesty return'd to *Kensington*; from whence he parted again on the 31st of *March*, and embarking near *Gravesend*, arriv'd safely in the *Maeße* on the 2d of *April*, after which he went to the *Hague*, and from thence to *Loo*.

This Year proved fatal to the Confederates both by Sea and Land; the *French* destroy'd the *Smyrna Fleet*, were victorious at *Landau*, and made themselves Masters of *Huy*, *Charleroy*, *Rosés*, *Heidelberg*, &c. but nevertheless made Offers of Peace, at the Close of the Year, by the *Danish* Minister, which were rejected.

In the latter End of *October*, the King return'd to his Dominions; within a Week after put Admiral *Russel* again at the Head of the Fleet, and *November* the 7th open'd

The FIFTH SESSION of his Second Parliament

WITH a Speech to both Houses, which see in CHANDLER's History, Anno 4 W. and M. 1693. P. 415.

No Petition to be received for protecting his Majesty's Servants.

November the 23d, It is resolv'd, and this Day ordered by the Lords spiritual and temporal in Parliament assembled, that this House will not receive any Petition for protecting their Majesties Servants, and that this Order be added to the standing Orders of this House.

Against which Order, the Lords whose Names are subscribed do enter their Protestations for these Reasons:

Protest thereon.

1st, That it hath been usual in all Times to relieve the King's Servants in these Cases, upon their Petition in Parliament.

2^{dly}, That this Order seem'd to us to be grounded upon a Mistake, which was, That the King's Servants in ordinary were relievable otherwise, that is, the Servants above Stairs by the Lord-Chamberlain, and those below by the Lord-Steward and Board of Green-Cloth, which is found impracticable; for neither the Lord-Chamberlain's Order, nor the Order of the Board of Green-Cloth can discharge any of the King's Servants that are imprisoned for Debt; all that they have

have ever done, or can do, is to commit those who arrest them to safe Custody, who may redeem themselves (and have often done) by *Habeas Corpus* the next Day, and consequently the Servant is left without Remedy.

Anno 4 Will.
& M. 1693.

3dly, Whereas it hath been suggested, That at least 400 of the King's Servants may claim Freedom from Arrests, and consequently this House be too much burdened with their Petitions; that Number seems to comprehend the extraordinary Servants also, who claim no Privilege, and are declared by an Order of Council, made in King *Charles II's* Time, to be incapable of Protection from their just Debts: Whereas the Servants in waiting are a far less Number, and Experience hath shewed us, that this House hath not been troubled with above two or three of their Petitions, at most, in any one Session.

4thly, It seems unreasonable to us, that the King (who is the Head of the Parliament) should have his Servants in ordinary taken from him, more than is suffered to any Member of either House of Parliament.

5thly, This Order, which in general Terms declares, that this House will not receive any Petition for protesting the King's Servants, seems to us to bear hard upon their Majesties Privilege, no Reason being given for the same.

Norfolk and Marshal, Jo. Oxon', P. Winton', Tho. Lincoln, Newport, J. Norwich, Edward Wigorn', Westmorland, Macclesfield, Sy. Eliens'.

The last Reason was directed, by Order of the 30th of November, to be expunged, but the above may be depended upon as a genuine Copy.

December the 22d, The House resumed the adjourned Debate, upon the Petition of the Dutchess of *Grafton* and *William Bridgeman*, Esq; complaining of the Judges of the *King's Bench*, and,

Leave given for
the Dutchess of
Grafton to
withdraw her
Petition.

The Question being put, Whether the said Dutchess of *Grafton* and *William Bridgeman* shall have Leave to withdraw their Petition?

It was resolved in the Affirmative.

Leave having been asked and given for any Lords to dissent to the above said Question, the Lords whose Names are underwritten do dissent as follows:

Because we conceived it proper, at the Time that Leave Protest thereon was granted to withdraw the Petition, that an Order should be given to have a further Information brought before this House, of the Proceedings of the *King's Bench*, in the Case of *William Bridgeman* and *Rowland Holt*, and others, in order to have directed a criminal Prosecution against the said Judges, in case the House should have thought fit to proceed so far against them.

Somer set,

Anno 4 Will.
& M. 1 93.

*Somerset, Scarsdale, Rochester, Winchester, Marlborough,
Aylesbury, Weymouth, Macclesfield, Maynard, Tho. Me-
nevo, Abburnham.*

January the 5th, Upon a Report of a Conference with the Commons, that they agreed to all the Amendments made by the Lords to the Bill touching free and impartial Proceedings in Parliament, except the last Clause,

Vote to agree
with the Com-
mons Amend-
ments to the
Bill for free and
impartial Pro-
ceedings in Par-
liaments.

The Question was put, Whether this House shall agree with the House of Commons?

It was resolved in the Affirmative. Contents 36; Not contents 25.

Leave having been asked and given for any Lord to dissent to the abovesaid Question, the Lords whose Names are underwritten do dissent as followeth :

Protest thereon.

Because that an Act that complains of Corruption in former Parliaments, and designs to provide against it for the future, ought not, in our Opinion, to contain a Clause to allow any one Member of the House of Commons to be excepted from the general Rules prescribed to hinder all the Members from taking Employments, especially the Speaker of that House, who, if he can be capable of being corrupted, may, by himself alone, do much more Mischief than a great many of the Members can do together; and this Clause allowing the Speaker capable of such Advantages and Employments, which all other Members are debarred from, by virtue of this Act, seems to establish the Possibility of Corruption in him by a Law, which we conceive, would be scandalous for the present, and of very dangerous Consequence in Times to come.

Rochester, H. London.

The 10th, After Consideration of the Expedition at Sea, the last Summer, and hearing the Admirals, and reading the Letters and Order in relation to that Business,

Vote to acquit
the Comman-
ders of the
Fleet.

It was resolved upon the Question, that the Admirals who commanded the Fleet last Summer have done well in the Execution of the Orders they received.

Leave having been asked and given for any Lords to dissent from the abovesaid Resolution, the Lords whose Names are hereafter subscribed dissent in the following Reasons :

Protest thereon.

1st, Whereas by an Order of the Admiralty, bearing Date the 19th of May last, the Admirals were to direct Sir George Rooke, that, after their parting with him, he should steer such a Course for his Passage to Cadix, as should be thought most safe by a Council of War, with relation as well to the *Brest* Fleet, if gone out to Sea, as the *Toulon* Squadron: It does not appear to us, that there has been any Council of War from

from the two and twentieth of *May* to the fourth of *June*, which was the Day the Signals were given for their parting from the *Streights* Fleet; which last Council of War was not called till after the Signals for parting were given, and occasioned by the Accident of the *Turkey* Fleet being becalmed.

Anno 4 Will.
& M. 1693.

2dly, That though it does appear by the Result of the Council of War, of the fourth of *June*, that they had no Intelligence where the Enemy was, yet notwithstanding we do not find in that Council, it was so much as proposed, how to get Intelligence where the *Brest* Fleet was, pursuant to the Order of the Admiralty of the nineteenth.

3dly, We conceive it to be the Duty of an Admiral or General to use his utmost Endeavours to discover the Motions of an Enemy, without an Order from his Superiors, and much more when he has one.

4thly, Their not sending one or more good Sailors to find out, if the *French* Fleet were sailed from *Brest*, as also what Course they steered, so as to give Intelligence to our main Fleet, at a Station appointed, before they parted with Sir *George Rooke*, was, as we conceive, the chief Cause of the Misfortune that happened to the *Turkey* Fleet.

5thly, It appears by the Admiral's own Letters to the Admiralty of the fourteenth of *July* and eighteenth of *September* last, that a Council of War held on the two and twentieth Day of *May*, they were of Opinion, that that Part of the Admiralty's Order of the nineteenth, which related to the Course Sir *George Rooke* was to steer, was unreasonable and impracticable, yet they did not send up to have it explained, though the Fleet did not sail till the thirteenth: This looks as if they rather designed an artificial Excuse for doing nothing, than the Discharge of the Trust reposed in them.

6thly, That Sir *George Rooke's* Narrative, which might have given a farther Light to the Enquiry into the Admiral's Conduct last Summer, was not allowed to be read.

7thly, This Vote seems to approve of the Behaviour of the Admirals in the last Summer's Expedition, which differs, as we conceive, from the Opinion the greatest Part of *Europe* has of it, and may be of ill Consequence, by giving our Allies no very fair Prospect of better Success.

8thly, Because by this Vote is prevented any further Enquiry into the last Year's Miscarriage, relating to the Admirals, if any new Matter should arise from new Evidence; and it may stop any Prosecution of the King's in case he should think fit to proceed farther in that Affair.

Bolton, Berkeley of Berkley, Straffords, Oxford, Ossulstone, Clifford, J. Bridgewater, Devonshire, Stamford.

Anno 5 Will.
& M. 1693-4

For the Conferences which passed between the two Houses as taken from the Journals of the House of Commons, on the Miscarriages on the Conduct of the Fleet, see CHANDLER's *History*, Anno 5 W. and M. 1693, Page 430, 437.

The following Speech was deliver'd by Dr. * *Stillington*, Bishop of *Worcester*, in the House of Lords, in the great Cause of the Earl of *Montagu* †, and the Earl of *Bath*, Feb. 17, 1693: 94.

My Lords,

Bishop of Worcester's Speech in the great Cause of the Earl of Bath.

‘ I have been unwilling at any time to give your Lordships any Trouble by my speaking, and I should be much more so in a Cause of so much Difficulty and Importance, if I do not think it my Duty to say something at this time in order to bring this Matter nearer to a Resolution. Most of your Time hath been taken up in Things which come not up to the main Point before us; which is, how far the Authority of this House extends, as a Court of Equity, in a Matter, which is determined at Common Law by a Jury. But that I may proceed with all possible Clearness, I shall consider, 1st, How the Matter comes before us. 2^{dly}, What Way and Method is to be taken for a Resolution in it. 1st, This Matter comes before us by way of Appeal from the Court of *Chancery*; where the Question was, Whether there were any ground in Equity to set aside a Deed of Settlement of the Duke of *Albermarle*'s Estate on the Earl of *Bath*; which Deed was found by the Verdict of an unexceptionable Jury after a fair Hearing of the Cause. Against this Deed a Will is set up, made A. D. 1687. with great Deliberation, and well attested; whereof the Duke left three several Copies, and owned it to be his Will a little before his Death, and is since approved by a Sentence of the Court of Delegates, and by a Decree in *Chancery*, as to the personal Estate. These are both voluntary Settlements, and there was no Obligation of Nature, as in Case of Children; nor of Justice, as in Case of Creditors, or Purchasers; and therefore the Point proves the harder, how far even the supreme Court of Equity can relieve against a Deed found at Common Law. It is not questioned in the Case, but if a Point of Equity be found in the Case, it is relievable here. For Equity, as it is understood here as to a Court of Equity, is some Consideration which makes a thing reasonable to be relieved, which cannot be relieved at Common Law. It is a groundless Imagination in any to suppose, that a Court of Equity among us is founded upon or managed by the Maxims of the Canon or Civil Law. The true Reason of it was, that when the Courts of Law in

Westminster-

* Consecrated October the 13th, 1689.

† See this Case at large in a Book, intitled, *Cases in Chancery*.

Westminster-Hall came to be settled, they were limited in their Jurisdiction by their original Constitution, which the Judges by their Oath were bound to adhere to. And it was necessary it should be so; for otherwise Law would have been a very uncertain thing. But it was found, that there were many Cases of Fraud, Accident, and Trust, which grew more into Use after the Quarrels about the Titles of *York* and *Lancaster*, and the Statute of Uses, 27 H. VIII. which were fit to be relieved in the Court of *Chancery*, even after Judgment at Law, notwithstanding the Statute of 4 H. IV. C. 23. And this continued, and necessary Practice made this a Part of the Law of the Land. From hence, all Causes that had Reason to be relieved, and yet had no Relief at Common Law, came to be accounted Causes of Equity; and from the inferior Court of *Chancery* Appeals have lain to this supreme Court both of Law and Equity, as it is by the Constitution of our Government; and it was both, before the Courts were settled in *Westminster-Hall*. I do not say that there were always the same Methods of Appeals and Writs of Error, (as they are now) for both are modern in Comparison: The ancient way was by Petition in both Cases, as all know, who are conversant in Parliament Rolls. This Cause comes now by Appeal from a Decree in *Chancery*; and the Point is, what Matter of Equity there is to be relieved in *Chancery* after a Verdict at Law. We cannot here arraign the Verdict of Law, which hath passed upon the Oaths and Consciences of those who are proper Judges of the Fact; and, therefore, the Truth of the Deed, as to the signing, sealing, and delivering of it, must be supposed by us; and consequently all the Objections which have been made against the Truth of the Deed, are not to be considered by us; nor any Imaginations of a possible resulting Trust, if the Deed had some Passages in it, which are not, as the Deed was found by the Jury. Here then lies the main Difficulty: After this Deed of 1681, the Duke makes a Will with great Deliberation, and signs and seals it in the Presence of three credible Witnesses. In this Will he disposes his Estate quite otherwise than he had done by the Deed; and the Question is, Whether he, remaining Owner of the Estate, and having a disposing Mind, doth not really and truly by his Will revoke the former Settlement; and if so, and some Circumstances be omitted in the Manner of Revocation, whether a Court of Equity may not supply the Defect of these Circumstances? This I take to be the true State of the present Case, and that I may find a way to the clear Resolution of it, we are to consider, 1st. That if the different Disposals of the Estate had been in the same Way, the latter had been an unquestionable Revocation of the former, if the

1693 4.

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Person

Anno 6 Will.
& M. 1693-4.

Person had equally a disposing Mind. *2dly*, That if the Deed had been made in Subserviency to his last Will, it could have had no Force against the Will. *3dly*, That if the Deed had been an absolute Conveyance without any Power of Revocation, the Will could not have voided it; for otherwise the Force of Deeds will be made void, and the Law of Settlements overthrown. *4thly*, That if the Power of Revocation had been absolute, *i. e.* without any Restrictions or Limitations of the Exercise of it, I am apt to think the Will must have taken Place, because it was a real Revocation, altho' not express. *5thly*, But here lies the turning Point; the Power of Revocation is limited by him that hath the disposing Power; and he declares by it, that he will not change his Settlement, but under such Circumstances: These Circumstances are not observed: The Question now before your Lordships is, Whether, as a Court of Equity, you can relieve the Defect of Circumstances in this Case? There are three Things insisted upon to prove it. *1st*, The Unreasonableness of such a limited Power of Revocation. *2dly*, The Equity and Fitness of the Case. *3dly*, The Precedents of Relief in like Cases. *1st*, The Unreasonableness of such a limited Power; which hath not only been called by some noble Lords, an unusual and extraordinary Power, but a thing inconsistent with the Liberty of Mankind, who ought to enjoy the Freedom of disposing their own Estates. No doubt, according to Reason without Laws, every Man who hath the entire Property of an Estate, hath the Power of disposing his Estate as he pleaseth; and this Power he retains, as long as he is under no restrictive Laws, and enjoys the free Exercise of his Reason. But when Laws intervene, they may so limit and restrain the disposing Power, that a Man cannot give away his own Estate, but in such a Manner as the Law allows him. Otherwise, after a Deed without Power of Revocation, he might dispose of his Estate as he pleased, as well as before. What need any Man reserve this Power, if it cannot be taken from him? The Question is, Whether there be the same Reason as to Circumstances of the Power, as there is to the Power itself? The Resolution of this depends upon the Point, whether there may be sufficient Reason for a Man's Power to be so limited, as to make it void if those Circumstances be not observed? If it be reasonable for Men by their own Consent to debar themselves from their own Freedom, to prevent a Trouble, which they fear more than the Loss of that Liberty; then such a Restraint cannot be thought unreasonable. Men may be so apprehensive of restless Importunities of such, whom they have no mind to quarrel with, or of their own Weakness and Liability to surprize, that they may, in a free and

and deliberate Manner, bar themselves of the Liberty of disposing of their own Estates, but under such Limitations which are unnecessary, and barely circumstantial. And it is agreed by the most impartial and judicious Interpreters of the Laws of Nature and Equity, that if a Man makes a Will, and therein declares, that no future Will shall stand good, unless the former be revoked, he doth bind himself so far, that a latter Will, although never so freely made, shall not obtain, unless there be an express Revocation of the former. And this generally obtains in the Courts of Law and Equity Abroad, as we are very well informed; and they look upon such Limitations, but as a kind of Protestation before-hand against the Freedom of his Consent to any such Act, wherein these Circumstances are not observed. And we are told by those who best understand our Law, that there is no Rule more clear in our Law-Books than this, that all the Circumstances of a Power of Revocation must be observed to make it good and effectual; as it is plainly delivered in *Scroop's Case*, and *Kibbet and Lee's Case*. It is certain, that the Law may make some Things so necessary, which in themselves are not so; that without them the Act is void; as Livery of Seisin, as to the Possession of Lands and Tenements in Freeholds. Can any one imagine, that the Circumstance of taking a Clod of Earth in an open Field, upon a Twig or Bough, should be necessary to convey the Inheritance of it; or the holding the Ring of a Door, as to a House, &c. or of a Rod, for a Copyhold Estate? What frivolous things in themselves are these? and yet when the Law hath made them necessary, they must be observed. What seems more repugnant to natural Reason and Equity, than the Way of Fines and Recoveries? For therein by mere Fiction of Law, without hearing the Parties concern'd, or giving any Reason, the next Heir at Law is bar'd from the Remainder of the Estate; and yet there is no Relief in Equity in this Case; but the greatest Part of Estates at this Day are under such Settlements. So that it is very dangerous to break in upon Laws, because the Things which the Laws require seem to be trivial and circumstantial. 2dly, But is the Law of *England* so unreasonably severe in these minute Circumstances, as to render a solemn and deliberate Act void for want of them, and so as to have no Relief in Equity? No: I think the Courts of Equity are to allow Relief in such Cases where it is reasonable to allow it: That is, in these following: 1st, In Matters of Fraud and Circumvention there is Relief in Equity, although there have been Judgment at Common Law. As in the Case of *Courtney and Glanville*; wherein there was a notorious Fraud discover'd after a Judgment at Law, *Cr. Jac.* 344; wherein the *Chancery*

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was

Anno 6 Will.
& M. 1693-4.

Anno 6 Will.
& M 93-4

was certainly in the right in giving Relief; because a Jewel not worth above 20*l.* was sold at 360*l.* But the Fraud must be plain, and evidently proved, not depending on Conjectures and Suspicions; and it must be such Proof as did not lie before the Jury which gave the Verdict. And if there were Ground to believe the Jury mistaken, there ought to have been a new Trial: But since there hath been no Motion that way, we are to look upon the Verdict as good; and that such Evidence ought not to sway with us now, which, if it had been true, must have alter'd their Verdict. As long as their Verdict stands, we must go according to their Judgment in the Matter of Fact. But the great Thing insisted upon was, that the Deed was obtain'd by way of Surprize upon the Duke; and of this the Jury could not judge, but a Court of Equity ought. Surprize is a sort of Fraud upon a Man's Understanding, and is contrary to that Trust and Confidence which one Man reposes in another: But he that is surprized, as soon as he can, endeavours to prevent the Effects of it. Here was a Power of Revocation left, which would never have been in a Deed by Surprize. Was it not in the Duke's Power in all the Time, from the sealing the Deed to his going to *Jamaica*, to have set the Matter right, and to have made the Earl of *Bath* sensible of what he had gotten by surprizing him into such a Deed? Is there any thing Persons of Honour are more sensible of, than being surprized into Settlements against their Minds? The Duke had it still in his Power to have revoked his Deed in the Manner prescribed for several Years; and since he did nothing of that kind, it is a great Argument to me, that there was no Surprize. *2dly*, There is Ground for Relief in *Chancery* upon not observing all the Circumstances in a Power of Revocation, if any Accident hinders the keeping close to them. If there were no Allowance for Accidents, our Law would be very unreasonable. I do not say that at Common Law there is to be an Allowance for them; but that very Thing makes a Court of Equity necessary. I can hardly think with patience of the great Cause of *Throckmorton* and *Sir Moyle Finch*, because it seems a Reproach to the Nation. The Case, in short, was this: *Throckmorton* had a Lease from the Crown, with a Condition, that if the Rent were not paid in such a Time, the Lease should be void. *Sir Moyle Finch* purchases the Reversion of the Lease, and enters for Non-payment of the Rent; and upon hearing, obtain'd Judgment at Law, which was affirm'd in a Writ of Error. *Throckmorton* exhibited a Bill in *Chancery*; setting forth, that he sent his Servant with the Rent, at the Time, but he was robbed; and, as soon as he knew it, he paid it the Day after, and the Queen accepted it.

♥ Of which Place he was Governor.

it. Yet this is the Precedent, which my Lord Coke several times insists upon against Relief in Equity; which, in my Opinion, turns the other way, and shews the Necessity of a Court of Equity in a Nation that would do equal Justice to Mankind; which doth not depend on mere Forms of Law, but on the Equity and just Reason of Things. Now, if in the present Case the Duke had sufficiently expressed his Intention to revoke the Deed; but some Accident, which he could not foresee or prevent, had hinder'd him from all the particular Circumstances, I should have thought there had been sufficient Ground in Equity for Relief; but nothing of that Nature is pretended. 3dly, If the Intention of the Party to revoke be clearly and undeniably proved. For as in Wills the great Thing to be looked at is *Animus Testandi*; so in Revocations, that there be *Animus Revocandi*; especially if there be an Opinion, that a Deed cannot be revoked by a Will, and there be Reason to believe that he might have that Opinion. I do not insist upon it, that there is full Proof that the Duke sent the Earl of Bath to *Courtney* to know if a Will would void the Deed, and that he said it would not. But this is in the Earl's Answer; and *Courtney* deposes, that the Earl told him so. The Use I make of it is, that there ought to be the stronger Proof of the Duke's Intention to revoke the Deed. And we are now to consider, what frequent Opportunities the Duke had of declaring his Mind to this Purpose, and that he never did it. 1st, When he spake first to Sir R. Clayton about making his Will, he never said any thing to him about the Deed; and when by his Advice he sent Sir H. Pollexfen to advise about his Will, he said not a Word to him about this Deed. Then was the Time to have shewed his Resentment of the Surprize, if it had been such, and to have taken Order for an effectual Revocation of the Deed. When I consider the Manner of his making the Will in 1687, the Deliberation and Advice he took about it, the Time that passed before the Sealing it, I must think one of these two Things; either that the Duke never heard or knew of any such Deed at all, or had forgotten it as much as if it had never been, (and, if so, I must believe several of the Witnesses forsworn, which swear to his Intention of leaving his Estate to the Earl of Bath, as Mr. Prideaux and others, which swear to Particulars only contained in the Deed) or else, that the Duke had a Purpose for some Ends to make the Will, which do not lie before us to judge of; but he had no Purpose to revoke the Deed, but to leave both the Will and Deed, and let the Law determine it when he was out of the hearing of the Clamours that would be made about it. 2dly, When the Duke lay sick

Anne 6 Will. sick at *Jamaica*, and upon the opening the strong Box
& M. 1693-4. his Will was discovered: *That*, saith he, *is my Will*.
Was ever a fitter Opportunity than at this Time to have declared his Intention of revoking this Deed in the Presence of so many Witnesses, and this to have been his last and solemn Act of Revocation of all Deeds and Wills whatsoever? What was the Reason this was not then done? There was no Earl of *Bath*, or his Agents, then near him; he was at full Liberty to have declared his Mind clearly in this Matter; and if he had done it then, he would have given me Satisfaction that he intended to have revoked the Deed, and then I should not have stuck at the want of three Peers, or other minuter Circumstances. But as Things are in Proof before us, it doth not appear to me that he had any Intention of revoking the Deed, as is necessary for the setting it aside after a Verdict at Law for it. For the Verdict gives the Earl of *Bath* a legal Title to the Estate, and therefore the Evidence of the Revocation must be such as must give us Ground to overthrow the Force and Effect of such a Verdict. But suppose the Duke remember'd the Deed, and had forgotten the limited Powers of Revocation; it may be, he remembered the general Power of Revocation, and forgot the Limitations of it; is there no Relief in that Case? This is the hardest Point of all in this Case; and it seems very reasonable to relieve against the Defect of Memory in such Cases, wherein Persons are to part with their Estates, which they are not willing to think of. It is very reasonable to suppose the Case; whether it be so reasonable to relieve in it, is the Question. Suppose a Man forgot to take Livery of Seisin as to Freehold Estates, or to surrender in Copyhold Estates, or to transfer from the right Heir without Fine or Recovery, will the Law relieve him? No: *But Equity may*. Not in Cases determined at Law, and which Estates are to be settled by; which every Man at his own Peril is bound to remember, or to advise with those who would put him in mind of it. But here is not any Evidence of Forgetfulness. If the Duke had told Sir *H P.* or Sir *R Cl.* that he had some obscure Remembrance of a Deed, and a Power of Revocation, they would have had the Deed produced, and the Powers examined, and the Revocation executed according to them: But since there appears nothing of all this, we are not to presume it, and to judge by the Things which do not appear. 3^{dly}, As to the Precedents on both Sides Yesterday opened and argued, I found not one come up to the present Case; but I found several good Rules of *Equity*, which are observed in the judicial Proceedings of the Court of Equity, As 1st, To make a favourable Construction of the Words
and

and Designs of a Will. So in *Pitt's* and *Pelham's* Case, Anno 6 Will. 3. where the Will was void at Law for want of a Clause to appoint the Heir to sell the Estate. 2dly, To supply some Defects where the Intention of the Party was clear and without Dispute, as in the Case of *Smith, Ashton, Thwaites* and *Deye*, where Seals were wanting to their Wills; but there was manifest Proof of the Intention of the Persons; and so the want of Seisin in the Case of *Lady Cranburn* and *Delmaboy*. 3dly, To accept an Equivalent where the bare Letter of the Settlement was not pursued, as in *Popham* and *Bamfield's* Case. 4thly, To set aside Settlements procured by Fraud and Circumvention, as in the Case of *Sir Henry Hele* and *Ring*, where there was manifest Fraud in the Inequality of Estates, and the different Assurances given. 5thly, To relieve in case of any Accident hindering the Performance, as in the Case of *Ward* and *Lee*; where it was declared in the Decree, that if there was a manifest Intention to revoke, but a Disability happened, there was Ground for Relief in Equity; but since in that Case there was only a cancelling the Deed in a Passion, and his Intention it should continue was plain, therefore the Court decreed it to continue a good Deed in Equity. But in this Case there is no Proof of Fraud, Accident, or manifest Intention to revoke the Deed: But here are two voluntary Settlements, and one of them confirmed by a Verdict at Law; and therefore unless some clear and undeniable Point of Equity do appear, which hath not yet to my Understanding, I must be against setting aside the Verdict at Law; and therefore humbly move that the Decree may be affirmed.

March the 24th, Several Lords who had enter'd Protections being heard, some of them were struck out, and the following Order made, viz.

'It is ordered and resolved, upon the Question, by the Lords Spiritual and Temporal in Parliament assembled, that no Lord shall enter any written Protection in the Book of Protections, until after he shall have personally attended this House, in the same Session of Parliament.' Order concerning Protections.

Leave was given for any Lord to dissent to the abovesaid Order.

That the taking off any Part of the undoubted Privileges, which every Peer of *England* enjoys by his Birthright, by a Vote in a pretty thin House, especially when a Peer of this House moved on the Behalf of the absent Lords, that a Day might be appointed for the Debate of the Matter, in which they were so much concerned, seems in the manner of it to make

Anno 6 Will. M. 1693-4. make too light of what this House ought to esteem so sacred as the Privileges of the Peerage of England.

Norfolk and Marshal.

April the 23th, *Hodie 3^a vice lecta est Billa*, entitled, An Act for granting to their Majesties certain Rates and Duties upon Tonnage of Ships or Vessels, and upon Beer, Ale, and other Liquors, for securing certain Recompences and Advantages in the said Act mentioned, to such Persons as shall voluntary advance the Sum of Fifteen hundred thousand Pounds towards carrying on the War against France.

Tonnage Bill.
passed.

The Question was put, Whether this Bill shall pass?
It was resolved in the Affirmative.

Protest thereon.

Dissentiens'

Against that Part of the Bill which relates to the incorporating the Governor and Company of the Bank of England, and the Clauses that concern the same.

Aylesbury, Rochester, Essex, Winchelsea, Sandwich, Tho. Koffen', Montagu, Nottingham.

Parliament
prorogued.

April the 25th, the King closed the Session with a Speech, to be found in CHANDLER's Hist. Anno' 6 W. and M. 1694, Page 446.

Promotions.

The same Day the Parliament was prorogued, the King bestowed the Title of Duke on the Earl of *Shrewsbury*, and created the Earl of *Mulgrave* Marquis of *Normanby*, with the Gift of a Pension of 3000*l.* a Year, to make his Lordship some Amends for the Place of Lord-Chamberlain, which he enjoyed in the former Reign. About the same Time the Lord Viscount *Sydney* was made Earl of *Rumney*, and *Henry Herbert*, Esq; Baron *Herbert of Chisbury*, in consideration of his eminent Services to their Majesties Government. *Edward Russel*, Esq; Sir *John Lowther*, *Henry Priestman*, Esq; *Robert Austen*, Esq; Sir *Robert Rich*, Sir *George Rook*, and Sir *John Houlton*, were appointed Commissioners for executing the Office of Lord-High-Admiral of England and Ireland. And the Commission of the Treasury was given to the Lord *Godolphin*, Sir *Stephen Fox*, *Charles Mensagu*, Esq; Sir *William Trumball*, and *John Smith*, Esq; Things being thus settled at Home, his Majesty embarked at *Margate* on the 6th of May, and safely landed in *Holland* the Day following.

Affairs Abroad.

The Exploits abroad this Summer were the unfortunate Attempt on *Brest*, in which the gallant General *Talmash* was killed; the bombarding of *Diep* and *Havre de Grace*,
the

the retaking *Huy* by the Allies, and the cooping up the *French Fleet* in *Toulon*. Anno 6 Will.
III. 1694.

November the 8th, the King landed in *England*, and the 12th open'd

The SIXTH SESSION of his Second Parliament

WITH a Speech to both Houses, for which see *CHANDLER's History, Anno 6 W. and M. 1694. Page 445.*

December the 18th, *Hodie 3^a vice lecta est Billa*, entitled, *An Act for the frequent Meeting and Calling of Parliaments.* An Act for the frequent calling of Parliaments pass'd.

The Question was put, Whether this Bill shall pass?

It was resolv'd in the Affirmative.

Leave being asked and given for any Lord to dissent, we do dissent from this Vote, because it tendeth to the Continuance of this present Parliament longer than, as we apprehend, is agreeable to the Constitution of *England*; besides the ill Consequences which, in many respects, may attend it. Protest thereon.

Devonshire, Weymouth, Aylesbury, Hallifax.

December the 28th, the Queen dying, the 31st the Lords waited on his Majesty with an Address of Condolance, in which their Lordships, 'with inexpressible Grief, did humbly assure his Majesty, of the deep Sense they had of the Loss his Majesty and the whole Kingdom did sustain by the Death of that excellent Princess, the Queen; beseeching his Majesty, that he would not indulge his Grief to the Prejudice of the Health of his Royal Person; in whose Preservation not only the Welfare of his own Subjects, but of all Christendom, was so nearly concerned. They also begg'd Leave to renew to his Majesty, the hearty and sincere Assurances of their utmost Assistance against all his Enemies, both at Home and Abroad; and of all other Demonstrations of the greatest Duty and Affection that could possibly be paid by the most faithful Subjects.'

Death of Queen Mary, and Address of Condolance thereon.

To this Address his Majesty answer'd;

"**T**HAT he heartily thank'd them for their Kindness to him; but much more for the Sense they shew'd of their great Loss, which was above what he could express."

King's Answer

January the 19th, The Amendments made by the Committee to the Bill, entitled, *An Act for making wilful and corrupt*

Anne 6 Will.
1694. III.

Act to make
Perjury Felony
rejected.

Protest thereon.

rupt Perjury, in certain Cases, to be Felony, were read the second time, and agreed to.

And after Debate the Question was put, Whether this Bill shall be engrossed?

It was resolved in the Negative.

These Lords following do dissent for this Reason: Because it has appeared by too many Instances, not only in former Times, but also very lately; how great need there is of such a Bill as this, to deter Men from those pernicious Crimes of Perjury and Subornation.

Bolton, Oxford, Normandy, N. Cestriens', Leeds, P. Somerset, Culpeper, Devonshire.

Proceedings on
the Lancashire
Trials.

February the 18th, The House this Day resuming the further Consideration of what remained in respect to the Proceedings and Trials in * *Lancashire*; and after hearing the Judges who acted in those Trials, and Debate thereupon,

The Question was put, That it is the Opinion of this House, that the Judges, who have any ways acted in relation to the *Lancashire* Trials, have done their Duty according to Law?

It was resolved in the Affirmative.

Protest thereon.

Dissentient

1st, Because, we conceive, that a Witness, who, in open Court, did twice mistake the Prisoner at the Bar, against whom he was a Witness, ought not to be recommended from a Judge to a Jury, as a Witness not to be excepted against. And,

2^{dly}, Because there appear'd several hard Circumstances in the Proceedings, and particularly the refusing to cause the Witnesses to be examined apart, when desired by the Prisoners, which, in a Constitution, where the Judges ought to be of Council for the Prisoners, seems to be contrary to the Intent of the Law for the Security of the Innocent, and, that in Con-

* Occasioned by the Lancashire Plot, of which Trial the following is a brief Account: The Trials began at Manchester the 16th October 1694; when the King's Evidence proved, or endeavoured to prove, That the Prisoners at the Bar had received Commissions from the late King James, to raise War against the present Government, and to that end had bought Arms, lifted and subsisted Soldiers at their own Charge, &c. But one Lunt, who from being as he said a principal Accomplise, turned the Discoverer and principal Evidence, twice mistaking one of the Prisoners, and one Taffe declaring there was no Truth in the Plot, the whole being a villanous Contrivance between himself and Lunt, the Council for the King would hear no farther Evidence; and on his Return to London, represented the Plot as a wicked and horrible Contrivance: Whereupon the Government, in Abhorrence of such a Fact, immediately ordered the Witnesses to be prosecuted for a Conspiracy against the Lives and Estates of the Lancashire and Cheshire Gentlemen, who thereupon made their Complaint first to the House of Commons and then to the Peers.

Consideration, may be of too ill Consequence to receive Countenance in this supreme Court.

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Sandwich, Nottingham, Guilford, Rochester.

March the 16th, The Heralds being this Day heard at the Bar (pursuant to the Order of the 16th instant) in relation to the Case of Baronies Descendants of Baronies by Writ ;

After Debate this Question was put, Whether if a Person summoned to a Parliament by Writ, and sitting, die, leaving Issue two or more Daughters, who all die, one of them only leaving Issue, such Issue has a right to demand a Summons to Parliament ?

It was resolved in the Affirmative.

The Lords following do dissent for these Reasons :

Protest thereon;

1st, Because, we conceive, it is more suitable to the Methods of all Courts of Justice, and therefore particularly more proper for this supreme Court, to give Judgment in particular Cases, when they are brought to be tried before them, than to make a general Rule, which possibly may not comprehend all future Accidents, that may be liable to many great Inconveniences that cannot be foreseen, and which, in its Nature, seems to be a Matter fitter to be provided for by a Law than a Judgment.

2^{dly}, Because there were several Precedents offered to be produced, to shew that the Practice, upon several Occasions, had been directly contrary to this Rule, and because the Heralds, who, we conceive, disproved the printed Precedents, were not allowed Time to produce Precedents to shew where Baronies descending to several Daughters were extinguished, and new Creations of those Titles given to others.

3^{dly}, Because, we conceive, this general Rule now made is in opposition to a Judgment solemnly given by this House, upon hearing Council on all Sides, in a particular Case lately referred by the King; and grounded on a bare Motion made by some Lords, who, we conceive, were no ways concerned in that Judgment.

4^{thly}, Because the last Rule does likewise seem to us to be repugnant to the Judgment of this House in the Case between the Earl of *Oxford* and Lord *Willoughby of Eresby*, then referred to this House by King *Charles I.* and by their Lordships thought fit to be referred to the Consideration of the Judges, as a Matter of that Importance that deserved their Assistance; who, upon mature Deliberation, returned their Opinion to their Lordships in these Words, (*viz.*)

‘ As to the Baronies of *Bulbeck*, *Sandford*, and *Badlesmere*, our Opinion is, that the same descended to the general Heirs of *John* the fourth Earl of *Oxford*, who had Issue

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John the fifth Earl of *Oxford*, and three Daughters; one of them married to the Lord *Latimer*, another to *Winchfield*, and another to *Knightsley*: Which *John* the fifth, Earl of *Oxford*, dying without Issue, those Baronies descended upon the said Daughters as his Sisters and Heirs; but those Dignities being entire, and not dividable, they became incapable of the same, otherwise than by Gift from the Crown, and they, in Strictness of Law, reverted unto, and were in the Disposition of King *Henry VIII.* and yet nevertheless, we find that four several Earls of *Oxford* successively, after that Descent to three Daughters, as Heirs Males of the said Earldom, assumed and took upon them those Honours and Titles in their Writings, Leases and Conveyances; and their eldest Sons have been stiled, in the Life-time of their Fathers, by the Name and Title of Lord Viscount *Bulbeck*, and so reputed to be, and the House did vote that the Baronies were in his Majesty's Disposition, and, in their Report to the King, did declare, that for the Baronies, they were wholly in his Majesty's Hand to dispose at his own Pleasure.

5thly, Because, we conceive, that it is not in the Power of this House, either to explain or repeal an Act of Parliament, tho' a private Act, in a judicial manner, but only in our legislative Capacity; and there being an Act passed in 15 *Charles II.* No. 15, for settling the Lands of the Earl of *Kent*, which disposes of the Barony of *Lucas of Crudwell*, and declares the King's Power to dispose of the Barony, when more than one Female Heir, to whom, or to which he pleases, or to hold in suspense, or to extinguish the same; we cannot but think this Vote is in direct opposition to that Act.

*Norfolk and Marshal, Herbert, Stamford, J. Bridgewater, Rochester, Torrington, Brooke, * Scarborough.*

Affair of the
Convex Lights,
and the concern
of the Marquis
of *Normanby*
therein.

The Speech of
the said Mar-
quis.

April the 18th, The House this Day taking into Consideration the several Examinations and Reports made and taken relating to the Convex-Lights, and a Lease of Land lately made by the City of *London* to the Marquis of † *Normanby*, his Lordship rose up and expressed himself as follows:

' Your Lordships have shewn me so much Justice, and Favour and Patience, in your Examination of this whole Business, at my humble Request, that I should make an ill Return, if I wasted your Time unnecessarily: And therefore I will not trouble you with Observations on those unusual

* *Richard Lumley*, Lord Viscount *Lumley* created Earl of *Scarborough* *April* 15, 1689.

† *John Sheffield*, Earl of *Mulgrave*, created Marquis of *Normanby* *May* 10, 1693, and Duke of *Buckingham* and *Normanby* *March* 9, 1702.

usual Methods, odd Aggravations, and inexcusable Delays, that some few Persons* have openly practised in this Debate. I will not, I need not insist upon it; your Lordships have all taken notice of it sufficiently; and the Truth is, such an over Eagerness in a very small Number against the Opinion of the rest, instead of hurting me, only exposes themselves. Yet I am sorry for this odd manner of proceeding, notwithstanding all the Advantage it has given me; because it has also given Occasion for a malicious Suspicion in this censorious Town, as if I had done these Lords some sort of private Injury; of which yet I am so innocent, that they will not add it to their other Accusations against me, I am confident.

* Neither will I take up your Lordships Time with Re-creminations: I confess it is hard to hold, when 'tis so easy to do it; the Subject is ample enough, and your Lordships will not think it so unbecoming a Gentleman to return an Accusation, as it was to be the first Accuser; but tho' never so much tempted, I have too much Respect for this great Assembly to entertain you so ill.

* The only Thing I shall trouble you with, is the Defence of what a Man cannot be too careful of, my Honour; and accordingly shall tell your Lordships a true Story very plainly. If I should fail in any thing, it would be no wonder, since I have neither used Council without-doors, nor troubled you with any here; being of opinion any Man is able to speak Truth without any Assistance.

* About four Years ago I design'd to build a House, and therefore disposed of that I lived in to the *Spanish* Ambassador; enquired every where for Ground; treated with Mr. Neal for his, beyond *Berkley-house*, and with others also; but at last fixed on that Spot of Ground you have now heard so much of. Upon my proposing it to those concern'd, I found two Difficulties; first, the Title was so perplex'd, there was no buying without an Act of Parliament to clear it; the second was, that the Inheritance of this Ground, after seventy-four Years, is in the City of *London*. I endeavour'd to overcome the first of these Difficulties, by procuring an Agreement among the Proprietors in the present Lease of seventy-four Years, in order to have an Act of Parliament; and for the other, I treated with the City, desiring only four Acres in all, for a House, a Court before it, and a small Garden behind it. I think, the first time I propos'd it, was here, in the Bishop's Lobby, to Sir ——— *Hubland*, Sir *R. Clayton*, and three more of the City altogether, who then assured me the Inheritance could be parted with. Upon this I desired a Lease of one hundred and fifty Years; which yet

was

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was refused; and after many Months I obtained one of one hundred Years only.

While this was treating about a Twelve-month, one of the City Officers brought me Articles to sign; of which one was, that the Lease should be void, unless I procured an Act of Parliament to pass for settling all Matters about it; where-in some Clauses of his penning might be inserted for the City's Advantage. The Condition appeared so unreasonable to me (who was only one of the many Parties that were to consent to such a private Act, before ever the Parliament, I knew, would pass in) that in a little Heat I told this small Officer, Mr. Lane, (the worthy Witness) that it must be his own Proposal, and too extravagant a one to come from the City, who had never asked such a Condition. Mr. Lane grew excessive angry, as the other Person, then present, has sworn; and very partly told me, he was not to be ruffled out of his Care for the City, by any Subject whatsoever; and yet, to pacify the good Man, who might, by his Place, do ill Offices by a Misrepresentation, I agreed (not that an Act should pass, tho' a private one) but only that I would, as a Party, give my Consent to it, as soon as all the other Proprietors did so too. But the true Reason why I refused his Proposal, was not for the least Doubt I had of your Lordships passing the Bill (which now lies on the Table ready drawn by Mr. Faulks, who sent it at my Request) but only because, in Justice, your Lordships require all Parties Agreement to any private Bill, which, I fear'd, so many of them would hardly be persuaded to; and then my Grant from the City was to have been void, if I had signed his fine Proposal.

To make an end of a long Story, the City granted the Lease at last, and it lies also on the Table, full of Covenants so much to the City's Advantage, and so little to mine, (there being some Articles of Charge to me, besides the Rent) that I have sold to the Lord Jefferyes, for one hundred Guineas, this great Present of the City (of which some have made such a Noise) because it is of no use to me, without building my House; which Design fails only for want of the Mortgagee's being able to make a sure Title; and they are not enough agreed to get an Act to pass about it. Upon this I will make a few Remarks, and so conclude. First,

The Value of this is, you see, so very inconsiderable, that it alone answers all Suspicion about it: For tho' a Bribe of a more Bawble is inexcusable; yet when Circumstances are examined in order to judge if it be a Bribe, or not, I suppose a plain Gold Ring is not to be suspected as much as a Diamond of one thousand Pounds.

The next Objection vanishes, about my undertaking for
this

this Act, when it is considered how many Instances there are every Day of Members in both Houses, who article, not only as I have done, to endeavour at, but also to procure a private Act of Parliament ; because, indeed, they can be understood to mean no more by it, than to consent themselves, to persuade others what they can, and sometimes to pay the Fees of the Clerks, which, in this very Lease, I am obliged to free the City from, whenever the Act passes.

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• The Length of the Lease is as odd a Cavil as the rest ; since one hundred Years is certainly as proportionable a Term for such a great House, as forty Years for a little one, especially considering how lightly they build little other now-a-days.

• Whereas there was some mention of my obliging the City about *Gulston's* Bill ; I confess, my Memory did not lay that Value upon it, as it seems their Gratitude did, who own'd the Obligation. It appears to have been a private Bill which invaded the City of *London's* Rights ; against which I deliver'd their Petition, and made the Master complain, that your Lordships threw out the Bill.

• It happen'd very lately, that an honest Country Gentleman heard, only by Accident, of an Act's being like to pass, which had undone him. I fancy, if any Lord had stopp'd it, either out of Good-will to him, or Justice, the Gentleman would call that Lord his Friend ever after, and drink his Health too, in spite of all his Enemies.

• Consider also the open Manner of the whole Proceeding with a great City, for at least a Year together, without Interruption.

• Each Clause stood upon with all Strictness, and every Article disputed by Council before them.

• Before a Committee of twelve Common-Council Men and six Aldermen, deputed to manage such Things.

• Carried at last there, (I desire your Lordships will take notice of that Remark, because of a great Estate lost here lately by equal Votes) not by an Equality ; if so, I should not wonder at a Review taken of it ; for things carried in that kind will be talked of, and perhaps once more considered. But this was done, my Lords, by a great Majority ; it was sworn here at your Bar that there were but three against it, and they too own to your Lordships themselves, it was only because they thought the Ground worth ten Pounds a Year more ; which being after seventy Years to come, is to be valued at a Year's Purchase ; so I have a notable Bargain of ten Pounds, according even to their Oaths, who crossed me in it, because indeed influenced by that City-Officer.

• Observe

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‘ Observe also, if you please, my Lords, the City sent their Officers several times to view this Ground, by which one of my Opposers own’d here he was at last convinced, that it was a good Bargain for the City, upon account of their Pipes and Buildings.

‘ And now, my Lords, I have reserv’d to the last, what alone would vindicate this Business. This very Ground is in Trustees Names, for the City, one of whom is an Infant; so, they could make me no legal Title before he comes to Age, and I have only an equitable one to depend on. Therefore, when this is to be confirmed and made valid, the City must be under other Governors, who will never, sure, confirm an ill Thing done by these; and they cannot be compelled to it, but in the Court of *Chancery*; which must then review all this whole Proceeding.

‘ As to the Convex-Lights, your Lordships have seen I am not the least concerned; but it falls out unluckily for my Accusers, that they pretend I am too much regarded by so great a City for assisting them on all Occasions (which I shall ever be proud of) and yet all the while blame me for stopping their Orphan’s Bill by my only Interest here: A direct Contradiction!

‘ I have troubled your Lordships too long about so slight a Matter; which indeed was unnecessary; for tho’ it happen’d once that many Misdemeanors amounted to a Treason, I am confident a thousand Slanders out of the Mouth of what great Man soever, will never here be able to give a Suspicion of Misdemeanor, unless of himself who slanders.

My Lords,

‘ I am too often entertaining your Lordships on all other Occasions; and perhaps should be too apt to do it in my own Case, especially if any Lord should either object, or recite amiss; which in this Debate has been found not impossible. I ask your Leave therefore to withdraw; not doubting but in such a Case, my Innocence will be safe under your Lordships Protection, and much better defended than if I were here myself to look after it.’

After Debate, the Question was put, Whether upon the Examination taken in relation to the Matter of the Convex Lights, while the Orphans Bill was depending in this House, or concerning a Lease of some Lands lately passed to the Lord Marquis of *Normanby*, by the City of *London*, there does appear any just Cause of Censure from this House, upon the said Lord Marquis of *Normanby*?

It was resolved in the Negative.

Question pass’d
in the Negative.

Dissentient

*Dissentient*Anno 7 Will.
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Because we humbly conceive it to be an Offence of an high and extraordinary Nature, that any Peer should presume to deliver the Opinion of this House, without Doors, to Persons whose Cause has been pleaded at this Bar, so as to induce them to compound their Interest, or oblige them to unwilling Compliances, more especially, in a Matter depending before us, in a Bill agreed to by the House of Commons.

Which we humbly conceive to have been plainly made out against the Marquis of *Normanby*, by the Depositions of Mr. *Hobbs*, Sir *Thomas Millington*, Mr. *Nois*, and Mr. *Lilly*.

Mr. *Hobbs* having informed this House, upon Oath, that he was absent and sick, and resolved to come to an Agreement with *Hutchinson*, but that Sir *Thomas Millington* had some time afterwards given him this Account, that the Marquis of *Normanby* came out several times from the House of Lords, assuring him the Bill would not pass, unless an Agreement were immediately made with the said *Hutchinson*, which, with the Clamours without Doors, were the Reasons that compelled him, and those others that signed, to agree.

Sir *Thomas Millington* having declared, upon Oath, that he was forced and compelled to sign the aforesaid Agreement, by frequent Intimations and Assurances given by the Marquis of *Normanby*, that the Bill should, or would not pass, unless he and his Partners did agree with *Hutchinson*, as likewise by the Clamours, without Doors, of those concerned for the passing of the Orphans Bill.

Mr. *Nois* (Agent for the Orphans) likewise deposing, that he heard the Marquis of *Normanby* tell Sir *Thomas Millington*, the Bill would be lost, unless the aforesaid Agreement was concluded; both affirming that no other Member of the House of Lords, to their Knowledge, gave any such Intimation or Account.

Mr. *Lilly* also deposing, that all present were forced to sign a Paper (which he hoped would prove no Agreement) because they were compelled to it by the Tumults at the Doors of the House of Lords, being afraid of Violence from the Orphans Agents and Solicitors, in case they had not signed it.

Which irregular Proceedings of the Marquis of *Normanby*, we conceive, fully proved by Witnesses of undoubted Reputation, who acted in pursuance of the Account they gave upon Oath; which are the more remarkable, because it appears that *Roman Russell*, Servant and Agent to the said Lord, had one 32d Part made over to him immediately before the Hearing in the House of Lords; which Share was assigned to Mr. *Moore*, by Mr. *Hutchinson*, to be made over

1695,

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for

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for the promoting his Interest in Parliament, and was, to that purpose (as the Writing testifies) disposed of to *Roman Russell*, which, we conceive, by the Proofs valuable two thousand Pounds.

Which Share, Mr. *Moore* deposes, was given to *Roman Russell*, and *Russell* confesses to have received for no other Consideration (but having been Servant to many Lords) to solicit and apprize them of the Case; yet it appears, by his own Confession, he knew not the Merits of the Cause, nor could name any other Lord, whom he had applied to, but the Marquis his Master, who brought in the Petition for *Hutchinson*, *Roman Russell* having acquainted him he had a Concern with him.

We likewise protest against the Vote, in relation to the second Part of it, which concerns the Lease made by the City to the Marquis of *Normanby*.

Because we conceive it a Present avowedly given to the said Marquis, for gratifying him for Services done to the City, in the House of Lords, and for the Expectation of like Services for the future, and by him received as such; which we are humbly of Opinion is sufficiently proved, and in such manner as, we apprehend, is highly to the Dishonour of this House.

First, This appears by the Entries in the City Books, where it was agreed by the Committee of the City Lands, to demand an extraordinary Power of the Common-Council, to grant a Lease under such extraordinary Conditions, as were not agreeable to their common Methods: In which Entry, the only Motive and Agreement that appears in the Books is expressed in these Words, *viz.*

Com' Concil' tent' 24^o Dis Jan. 1693.

At a Common-Council a Motion was made for gratifying a Person of Honour, who had been very friendly to the Interest of the City, in the House of Lords, and likely to continue so, with a long Term of Years, in about two or three Acres of the City Ground lying and being in *Conduit-Mead*, behind *Clarendon-House*.

The Question being put, Whether this Court will empower the Committee, for settling and demising the City Lands, to grant unto the said Lord an additional Term in the said Ground, at and under such Rents, Covenants and Conditions as the said Committee shall approve of?

It was carried in the Affirmative.

And referred to the said Committee accordingly.

As likewise the same is again enter'd in the Books in the last Determination of the Committee for City Lands, as the only

only Motive to induce them to make such a Grant, in these Words, *viz.*

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It being by special Order of this honourable Court referred to us, in order to the gratifying a Person of Honour, who hath been very friendly to the Interest of the City, in the House of Lords, and is likely to continue so, &c. and signed by Sir Robert Clayton, and several of the Parties consenting to this Lease, who were summoned as Witnesses by the Marquis of *Normanby*.

It being further made evident (as we humbly conceive) by the Oaths of Mr. *Lane*, the City Comptroller, Mr. *Morrice*, a Member of the House of Commons, and Mr. *Ballow*, one of the Committee, who deposed the Arguments made use of for this Lease, in several Meetings of the Committee, were the Services done, and like to be done the City by the Marquis of *Normanby*; particular mention being made in their Depositions of his Assistance in flinging out *Gulston's* Bill, and his helping that of the Orphans.

And we further conceive (with great Deference to this honourable House) that the Motives and Considerations, sworn by several of the Committee-Men, who were consenting to such Grant or Lease, as Inducements to them to pass it, appear, upon Examination, to be no valuable Considerations.

As the building a great House of thirty or forty thousand Pounds upon the Lands, the securing their Water-Pipes, the obtaining several Years Arrear of Rent, the making a Brick Drain; which alledged Considerations seem to us of no Weight, the Marquis being under no Covenant in his Lease to build such House, the Pipes of their Water being secured for seventy Years to come, by their former Lease, the Arrears having been paid, not by the said Marquis, but by the Tenants under the first Lease, when demanded.

And moreover, in our humble Opinion, there is little room to doubt, but that the said Lease was given and taken as a Gratification, Mr. *Lane* giving it in, upon Oath, from the Marquis of *Normanby's* own Mouth, that he looked upon the Lease as a Present to him from the City for his Kindnesses and Services, and that they were Suitors to him, not he to them.

Finally, We are the rather convinced of it, because the Depositions of Mr. *Lane*, Mr. *Morrice*, and Mr. *Ballow*, are suitable to the Entries in the City Books, which most of the Evidence summoned for the Marquis of *Normanby* have set their Hands to, where no mention is made of those other Matters sworn by them as Considerations inclining them to grant such Lease.

Induced by these Parts of the Evidence recited (having enter'd the whole upon our Book) that nothing may be con-

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sealed which may any way tend to the Justification of the noble Lord concerned, and for the Reasons aforesaid, we protest against this Vote, not being able to satisfy ourselves, that this High Court of Honour and Judicature had no just Grounds to pass some Censure on the Marquis of *Normanby*, upon the Evidence given to this House, on the Matters of the Convex Lights and City-Lease.

Manchester, Torrington, Cholmondeley, Essex, Stamford, Aylesbury, Monmouth.

Joint Committee
of both Houses
to enquire into
Abuses and Cor-
ruptions.

But the most remarkable Transaction of this Session was the Enquiry into Abuses and Corruptions, which began in the House of Commons before *Christmas*, and was afterwards carried on by a joint Committee of both Houses; the Proceedings of which, and Conferences thereon, &c. are to be found in CHANDLER'S *Hist. Anno 7 W. III. 1695. P. 447, and 459. &c.*

Duke of Leeds.

'Tis, however, necessary to add in this Place such Particulars as occur'd, on this Head, in the House of Peers, *viz.* A Bill to indemnify Sir *Thomas Cooke*, Governor of the *East-India* Company, from any Matters against himself arising from his own Evidence, in regard to the Disposal of Monies for procuring the Renewal of the Charter of the *East-India* Company, being sent up from the Commons to the Lords, the Duke of *Leeds*, Lord President of the Council, spoke vehemently against it, and introduced what he was about to say with a most solemn Protestation of his Cleanness and Innocence; and, laying his Hand on his Breast, declared, upon his Faith and Honour, 'That he was perfectly disinterested, and had no Part or Concern in this Matter, and therefore might the better appear against it;' which he did, expressing great Abhorrence of the Bill.

Message to the
Commons re-
lating thereto.

Upon Saturday the 13th of *April* their Lordships sent a Message to the House of Commons, that they having under their Consideration a Bill to oblige Sir *Thomas Cooke* to account, &c. do desire Sir *Thomas Cooke* (a Member of the House of Commons, and now a Prisoner in the *Tower*) may be permitted and ordered to appear at the Bar of the Lords House, when desired; and thereupon the House of Commons ordered that he do attend the Lords as desired, and that Mr. Speaker issue his Warrant to that purpose.

Sir Thomas
Cooke heard
by the Lords.

Sir *Thomas Cooke* being brought upon his Petition to the Bar of the Lords, he declared himself ready and very willing to

* Sir Thomas Osborne, created Baron of Kiveton and Viscount Latimer, by King Charles II. August 15, 1673, and Earl of Danby, June 27, 1674, Marquis of Carmarthen by King William, April 20, 1689, and Duke of Leeds, April 30, 1694. See Proceedings against him as Earl of Danby, Page 225.

to make a full Discovery; and said, he had done it before, in the House of Commons, if he could have obtained there an indemnifying Vote; and that their denying it him had occasioned his appearing before their Lordships in that manner: He bemoaned himself (weeping) that he was not indemnified at that Instant, so that he might just then make the Discovery which was expected, and which he was so desirous to make.

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Thereupon it was demanded of him, what he would be indemnified from? He answered, All Actions and Suits, except from the *East India Company*, whom, if he had injured, he would be bound to undergo the greatest Rigour. He also said, he desired to be indemnified from *Scandalums*. It was ask'd him, whether he meant *Scandalum magnatum*? He said, *Yes*.

He being withdrawn, the Duke of *Leeds* stood up, and declared, He was very glad that Gentleman was come to such a Temper, as to be willing to discover, whereby that Bill was prevented, which his Lordship esteemed to be of so pernicious a Nature.

Duke of Leeds's
Motion that he
should purge
the Peers upon
Oath.

His Grace minded their Lordships how the Commons took care of the Reputation of their House, in asking Sir *Thomas Cooke* whether he had distributed any Money among any of their Members, who purg'd them by a solemn Protestation, that he had not; his Lordship thinks it reasonable the Lords should have some regard to themselves, and therefore moved that Sir *Thomas Cooke* might be called in and asked, Whether he were willing upon Oath to purge all those who sat there? But this was not received.

Over-ruled.

After this the Lords came to a Resolution, that the Bill sent up from the Commons, to oblige Sir *Thomas Cooke* to give an Account, &c. should not be proceeded upon, but appointed a Committee to draw up a Bill to indemnify him.

That Committee being withdrawn, and having made some Progress, Notice came from Sir *Thomas Cooke* (by a Reverend Prelate who appeared zealous for him) to this purpose, That he was afraid he might be misapprehended as to what he said concerning a Discovery, in that he said he was willing and ready; but by ready he meant no more but willing; and that he should need at least four Months to make the Discovery he promised.

A qualifying
Message from
Sir T. Cooke.

This was highly resented by some of the Lords of the Committee, who immediately moved that the Committee might rise and report to the House this fresh Matter, and the trifling and prevaricating of Sir *Thomas Cooke*, so that the Bill designed to oblige him to give an Account might now proceed.

Which gives
Offence.

Some Lords mollified this, and having taken up some time in speaking; in the mean while Sir *Thomas Cooke* begging a favourable Treatment, engaged to discover within a Fort-

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night: He was called in more than once, and at last agreed to the time allowed by the Bill, viz. seven Days

Both Houses at last agreed on a Bill which was in Effect as follows:

Bill to indem-
nify him.

• The Preamble sets forth, that it appears by the Books of the *East India Company*, that Sir *Thomas Cooke*, Kt in 1693, being Governor of the Company, did receive out of their Stock and Treasure 77258 *l.* and also 90000 *l.*

• And that a true Discovery of the Distribution of those Sums is necessary to the vindicating the Justice and Honour of the Government, and that Sir *Thomas Cooke* hath voluntarily offered to make such Discovery so as he may be indemnified.

• It is enacted, That if Sir *Thomas Cooke*, on or before the 23d Day of *April*, 1695, do make a true and full Discovery upon Oath before a Committee of the Lords and Commons, how and in what manner, and to what Person or Persons, and to what particular Uses, Intent and Purposes, and on what Account the said 90000 *l.* and the Sum of 67000 *l.* part of the said 77258 *l.* have been distributed, then he shall not, by reason of such Discovery, be liable to any Action of any Person other than the *East-India Company*; and shall be and is pardoned and indemnified for any Crime in the Distribution or Application of the said Money to any Person other than to himself.

• And it is further enacted, That the said Sir *Thomas Cooke* shall, on or before the first of *September*, 1695, either discharge himself upon Oath to the Commissioners for stating and taking the public Accounts, of the Sum of 10258 *l.* Residue of the said 77258 *l.* or discover to them upon Oath how and in what manner, and to what Person or Persons, and to what Uses, Intent and Purposes, and on what Account the said Sum of 10258 *l.* hath been distributed or made use of; and in such Case he shall not, by reason of such Discovery or discharging himself upon Oath, be liable to any Action, &c. other than the said Company, and is declared pardoned for any Crime he may be guilty of in the Distribution or Disposal of the same to any Person other than to himself; provided, that if he shall not, on or before the said 23d of *April*, make such true and full Discovery, that then he shall from thenceforth continue a Prisoner in the *Tower*, until he shall have made such true and full Discovery upon Oath before the Commissioners for taking the Public Accounts."

The Consequence of this Act was the joint Committee before spoken of, before whom Mr. *Bates*, a Retainer to the Duke of *Leeds*, and Sir *Basil Firebrace*, read the following Depositions.

April

April the 26th, At the Committee of both Houses in the *Exchequer Chamber*. Mr. *Bates* had been summoned to appear the preceding Day, and was seen going thro' *Westminster-Hall* between five and six at Night, yet could not be found, tho' the Lords sent Messengers to look for him: Upon which their Lordships ordered him to be taken into the Duke of *Leeds* Custody; and being now sworn and examined, he deposeth,

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The Deposition
of Mr. Bates,
with respect to
the Duke of
Leeds.

• That Sir *Basil Firebrace* did apply himself to him to use his Interest for obtaining a Charter for the *East India Company*, the old Charter being forfeited, and told him, this Deponent, they would be very grateful for it, but cannot remember that any particular Sum was named.

• That he, this Deponent, did use his Interest with the Lord-President, who said, He would do what Service he could: And further saith, that the Lord-President had delivered his Opinion publicly for confirming the Charter, and thought the Forfeiture an Hardship.

• That the Lord-President had often shewed himself his Friend.

• That he received three Notes for 5500 Guineas in the whole: That he sent a Servant to receive the Money, but can't say the Time: That he told the Lord President what Sum he had, and would have passed it upon my Lord, but he refused it. Whereupon this Deponent, in regard he could not very well tell Money himself, did ask Leave of my Lord that his Servant might tell the Money. To which my Lord answered, He gave Leave; and accordingly Monsieur *Robart* did receive the Money.

• That he had not the Notes till after one Charter passed; but he saith, that the Notes were given altogether at one time, and that he, this Deponent, gave no Counter-notes when he received them; but afterwards, he being examined to the same Matter, was not positive that Counter-notes were not given: That he thinks when he had the first Treaty with Sir *Basil Firebrace*, that Sir *Basil* did say, he, this Deponent, should have a Sum, and thinks he named a particular Sum.

• That 500 Guineas were received before *June* last, and the other 5000 Guineas afterwards.

• That the said Notes were not out of his Possession from the Time he first had them, to the Time he gave them to Monsieur *Robart* to receive the Money; who, after he had received it, brought the same to him, which hath remained in his Deponent's Possession in this own House, till he paid 4400 Guineas thereof back again to Sir *Basil*, which, as he takes it, was upon Monday or Tuesday last. And being examined again to the same Matter, saith,

• That

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‘ That these 4400 Guinea’s paid back to Sir *Basil*, were in four Bags, with 1100 Guineas in each, brought to him by *Robert*, within a Month last past. As to the 600 Guineas remaining of the 5000, he at first said he had spent the same; and being afterwards examined to the same Matter, did say, they were at Home in his Study; but he may have spent some.

‘ The Reason why he paid back the 4400 Guineas was the Noise that it made, and that People may think that he did not deserve them.

‘ That the whole 5500 Guineas were for his own private Use, and that he might have given them to his Footman.’

And of Sir *Basil*
Firebrace.

Sir *Basil Firebrace* deposeth, ‘ That the *East-India* Company’s Charter being forfeited, Sir *Thomas Cooke* and others applied themselves to him, observing him active, and to have Interest among Noblemen, to endeavour the procuring a new Charter. That Sir *Thomas Cooke* was apprehensive that it stuck with the Duke of *Leeds*, and told him, this Deponent, that some way must be found out to the Duke. He thereupon applied himself to Mr. *Bates*, who would not pretend to talk with the Duke; but said, he, the Deponent, must tell him what the Company would do. That he told Mr. *Bates* he thought a Present might be made of 2 or 3000*l.*. That Mr. *Bates* told him he went to St. *James’s*, and said, he had spoke with his Friend; and that more had been offered by the other Side: At another time he said more was offered by one Side; and at last said, that 5000*l.* had been offered by another Hand on the same Side: Upon which he, this Deponent, did not come up to the Market. That he acquainted Sir *Thomas Cooke* with this Proposal, who said, If it was insisted on, it must be done; and so it was agreed to offer 5000 Guineas. *Bates* then said, This was nothing to him, he ought not to be employed for nothing. So this Deponent was forced to go back to Sir *Thomas Cooke* for new Orders; and so 500 Guineas were given to him besides. That at first *Bates* said, he would undertake no further than that the Duke should not oppose, but be silent, because he did not know but the Duke had engaged himself, by having spoke on the other Side. That he, this Deponent, did except against this, because he would not let the Company’s Money go for nothing; and it would reflect upon him if nothing appeared to be done for it.

- ‘ It was then agreed, that if the Duke did act in favour of the Company, he should have 2 and 3000 Guineas, and *Bates* 500 Guineas to himself. He, this Deponent, would have put off his 500 Guineas to the last, to engage him to take the more Pains; but *Bates* said, his Friend would have him have the 500 Guineas to himself first.

Sir

* Sir *Bafil* produced a Copy of Mr. *Bates's* Receipt of a Note for 3000 Guineas, which he thereby promised not to call for till the Charter should pass : The Original Mr. *Bates* had back when the Money was paid, and he this Deponent had not taken a Copy of the Counter-note for 2500 Guineas.

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April the 26th, The Copy of the Receipt then produced by Sir *Bafil Firebrace*.

* I *Charles Bates of Westminster, Esq;* do hereby acknowledge to have received of Sir *Thomas Cooke* of London, Kt. one Note signed by *William Atwell* for himself and Company, dated the 8th Instant, and payable to myself for 300 Guineas, which I promise not to receive or alter the Property of, till such time as the Charter now depending before their Majesties, for making of Regulations, Alterations, and Additions, to the Charter and Stock of the present *East-India* Company, shall pass the Great Seal of *England*: And in case the said Charter do not pass the Great Seal on or before the 25th Day of *March* next, I do hereby for myself, my Executors and Administrators, covenant and agree to and with the said Sir *Thomas Cooke*, his Executors and Administrators, to restore and return the above-mentioned Note, in the same manner I received the same : But if the said Charter shall pass the Great Seal on or before the Day above-named, then the Money mentioned in the said Note to remain to me without farther Account for the same. Witness my Hand this 9th Day of *September*, 1693.

Witness *B. F.*

Charles Bates.

The Deponent further saith, ' That after the first Charter was passed in *October*, he sent to Mr. *Bates* that he might call for the Money, and he did call for it in two or three Days : That the other Note was paid in a Week after the passing the Charter. From the time the Notes were given they had free Access to my Lord President, and found him easy and willing to give us his Assistance.

* That Mr. *Bates* was shy, and called it his Friend at St. *James's* : That the Condition of one Draught, which Mr. *Bates* brought, was worded, in case the Lord President did not assist the Company in passing the Charter ; to which this Deponent made an Alteration, by putting out my Lord's Name, and making it not payable in case the Charter should not pass, or to that Effect. *Bates* said it came from his Friend at St. *James's*.

* That about a Week before the Money was brought back again, this Deponent went to *Bates* about it, who then told him, It was all for himself.

1695.

L I I

* That

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‘ That on *Sunday* Night last, or *Monday*, *Bates* being at his own House, said, He had not the Money about him, but he would fetch it; and that the Money he thought was Silver; but afterwards to’d this Deponent it was only a Mistake, and had brought it in Gold, which by Computation came to the same Sum.

‘ That when this Deponent told him that Sir *Thomas Cooke* would not take the whole back, *Bates* said, He could give no Answer to it till he had spoke with his Friend.’

Duke of Leeds
impeached.

On the Strength of these Depositions, the Commons impeached the Duke, tho’ he made an artful Speech in their own House in hopes to stave it off.

On the Reading of the Report from the Lords Committee, his Grace likewise express’d himself in this manner, *viz.*

His Speech on
the Reading the
Lords Committee’s Report.

‘ That as he had formerly protested himself to be free in this Matter; so he still denied, upon his Faith and Honour, that he was guilty of any such Corruptions as were suggested against him, and that if the whole Truth were laid open, it would tend to his Honour and Advantage.

‘ That he would be very free in telling their Lordships now before-hand, all that passed, in which he was any ways concerned. And thereupon declared, that Mr. *Bates* introduced Sir *Basil Firebrace* to him, and that he had had Conferences with Sir *Basil* upon the Subject of the *East-India* Company, which *Firebrace* was concerned for.

‘ That some time after, Mr. *Bates* came and informed him that he was to have a Sum of Money of Sir *Basil Firebrace*; and desired his Lordship to lend him one of his Servants (Mr. *Bates* keeping but a Footman) to receive the Money, and so he lent him Monsieur *Robart*.

‘ That his Lordship knew nothing of the Sum; but afterwards Mr. *Bates* came to him, and told him he had received 5000 Guineas, which he offered to him, telling his Lordship that he had been very obliging and kind to him; and that, in Acknowledgment of the many Favours he had received from his Lordship’s Hands, he humbly desired him to accept of them: Which he refusing, Mr. *Bates* press’d him earnestly to take one half or a quarter; which he still refused, declaring he would not touch a Penny of them; and told him, since he had taken them he thought there was no need of returning them, they were his own, and wish’d him good Luck with them, as I remember (said his Lordship) I did once to Mr. *Harry Saville*, for whom I had a great Respect; which reminds me of a Story I must needs tell your Lordships upon this Occasion. He then related the Story: That when he was Treasurer, the Excise being to be farm’d, for which many

* CHANDLER’S History, Anno 7 Will. III. 1695, page 467.

many put in, the Bidders for it (who were to give in their Proposals sealed up) having applied to Mr. *Saville* for his Interest at Court, he came to his Lordship and desired that he would tell the Gentlemen that put in (who were several) that Mr. *Saville* had spoke for them: What, said I, (proceeded the Duke) would you have me tell all of them so, when but one is to have it? No matter for that, said Mr. *Saville*, for whosoever has it will think I have done him this Service; and I am sure of a good Present, without more ado: So (my Lords) when the Men came, I told them one after another, Sir, you are very much obliged to Mr. *Saville*; Sir, Mr. *Saville* has been very much your Friend. A little after, when the thing was settled, Mr. *Saville* came and thank'd me for what I had done; and told me he had got his Present that he had expected; which I told him I was glad of, and wish'd him good Luck with it, as I now did to Mr. *Bates*. And thus I was then a Shadow to Mr. *Saville*, as I was now to Mr. *Bates*.

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April the 29th, The Articles of * Impeachment being brought up to the Lords, and read, the Duke of *Leeds*, repeating several Things to the same effect as formerly, said, 'That Mr. *Bates* desired that he would allow him to bring Sir *Basil Firebrace* to him; and that he bid Mr. *Bates* take care of Sir *Basil*, for he took him to be a very ill Man; but Mr. *Bates* said, he knew him very well: So, after much Intreaty, his Lordship permitted Mr. *Bates* to bring him.

The Articles of
Impeachment
against him
read.
His Grace's
Speech thereon.

'That Mr. *Bates* and his Lordship had had a long Acquaintance and Friendship, and what he did in this manner was only to befriend him.

His Lordship added, 'That this Storm which was now fallen upon him, was some time a gathering; and it was promoted by a Faction, and a Party who had only a Pique against him; and the King's Business had been delayed on purpose.

'That he had an original Letter which gave him an Account of this some time before it broke out; and it appeared only levelled against him, because none else were prosecuted: and there appeared a Joy they could catch at this; for then they stopped; and Sir *Basil Firebrace* was treated with to discover only this Part, and so he should be excused from any farther Discovery.

'His Lordship concluded, praying a Copy of the Articles of his Impeachment, and of the Report made by the Committee to the House, which was readily granted.'

April the 30th, The Lords sent a Message to acquaint the House of Commons, that the Duke of *Leeds* having this
L 1 1 2 Day

* See CHANDLER's Hist. Anno 7 W. III. 1695. Page 470.

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Day put in his Answer to the Articles of Impeachment exhibited against him, their Lordships have sent a Copy thereof to them.

The Answer was received and read, and is as follows :

And Answer
thereto.

‘ This Defendant saving to himself all Advantages of Exceptions to the said Articles, humbly saith, That he is not guilty of all or any the Matters by the said Articles charged in Manner and Form, as the same are by the said Articles charged against him.’

Upon the Duke’s putting in the Answer, he again declared, before God, and upon his Honour and Conscience, that he was not guilty, and had great Wrong done him in this Accusation.

Message to put
the Commons
in mind of the
Impeachment
of the Duke of
Leeds,

May the 1st, The Lords sent a Message to the Commons to acquaint them that they think themselves obliged in Justice to put the House in mind of the Impeachment against the Duke of *Leeds*, to which the Duke’s Answer having been transmitted to them, the Lords desire to be acquainted when they can be ready to make good the Articles of Impeachment, to the end a certain Day may be appointed by the Lords for that purpose.

His Grace com-
plains of their
Delay.

‘ The Duke, upon the 2d of *May*, complained in the House of Lords of the Delay of the House of Commons, in not replying to his Answer, alledging, that the Impeachment was only to load him with Disgrace, and that they never intended to try him. And added,

‘ That the Party used great Partiality towards him, and did not intend to enquire after others : That they shewed a Mark of their Partiality and Spleen, in their Amendment to the Bill for imprisoning Sir *Thomas Cooke*, Sir *Basil Firebrace* and the others ; Sir *Basil* was to be bailed because he was the Witness against his Lordship.’

Desires his Im-
peachment may
be discharged.

Friday, May the 3d, A Motion being made in the House of Lords, to read the Bill for granting to the King a Duty upon *Glass*, &c. the Duke rose up and told the Lords, ‘ That it grieved him, that he, who was as much as any Man for the Dispatch of the Money Bills, and never opposed any, should now do it ; but he hoped the Lords would consider his Case, not only as his, but the Case of any of their Lordships ; for it was in the Power of a Tinker to accuse at the End of a Session, and one might lie under it without Remedy : And since that they, by Mismanagement, had delayed this Money-Bill for six Weeks, it would not be of mighty ill Consequence if it should lie a Day or two longer.

‘ His Lordship pressed very earnestly, that if the House of Commons did not reply, the Impeachment might be discharged ;

charged; for, if it were not, he might lie under the Reproach thereof all his Life. He believed the Commons would do nothing in it; for tho' they had appointed a Committee to meet, they met but once, and that for Form, and never met more, nor would do any thing in it.'

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The same Day the Commons, at a Conference, delivered a written Paper to the Lords, signifying, ' That the Commons will make good the Charge against the Duke of *Leeds*, in manner and form as in the Articles mentioned, and that the Committee who were appointed to draw the said Articles, have been daily employed in looking into Evidence against the Duke; and that in the Preparation of the Evidence they meet with an Obstruction, that Monsieur *Robart*, who appeared by the Depositions before the Committee of both Houses to be a material Witness, is withdrawn since the Impeachment was carried up; which has been the Reason the Commons have not yet acquainted your Lordships when they can be ready to make good the said Impeachment, the Commons being desirous that Justice be done without any manner of Delay.'

The Paper being brought into the Lords House, and read, it was moved and agreed, without any Debate, or any Opposition made by the Duke of *Leeds*, that an Address should be made to the King, to issue a Proclamation for stopping the Ports and seizing Monsieur *Robart*.

Note, The Duke, in Assistance to the House, told them, that it was requisite to insert the Person's Christian Name, and said his Name was *John*, his Sirname being *Robart*.

' The Duke then rose up and blamed the House of Commons, for doing an unheard-of, an unprecedented Thing, to charge a Man with Crimes, and to say they were ready to make it good, before they had all the Evidences; and now they should say they wanted a material Witness, and lay it upon him to produce this Witness; as if a Person were obliged more to produce Evidence to accuse him, than to answer such Questions by which he accuses himself.

The Duke of
Leeds arraigns
the Conduct of
the Commons,

' His Lordship then proceeded to acquaint the House, that in truth, he had sent Monsieur *Robart* to see his Daughter *Lempster*, who went into the Country big with Child; and ordered him to call at *Minns* to see his Daughter *Plimouth*, it being in his way to his Daughter *Lempster's*, where the Messenger of the House of Commons might have known he was gone if he had asked.

' That his Lordship (that there might be no Mistake) sent a Messenger on purpose for *Robart*. That his Footman waked him about two of the Clock on Sunday Morning, (for which

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which he was very angry) to let him know *Robert* was come, and was in the House, which was as soon as he could possibly return : That his Lordship told the Footman he would go to sleep, and would speak with *Robert* in the Morning, when he usually call'd him ; but when his Lordship ask'd for him in the Morning, the Footman said he was gone ; and, upon Enquiry, he found *Robert* did not lie nor pull off his Boots in his Chamber : That the Footman said, he ask'd whether the News was true, that his Lord was impeach'd, and Mr. *Bates* was in Prison ; which the Footman own'd to be true ; and his Lordship believes that frighten'd *Robert*.

• That his Chaplain shewed him a * Letter from *Robert*, with a Desire to acquaint his Lord, that he design'd for his own Country, *Switzerland*, through *Holland* ; from whence he would write his Lord a true Account of all the Matter of the 5500 Guineas to Mr. *Bates*.

• That his Lordship knew, by the Manner of his Writing, by the Man, and by a particular Knowledge he had of him and of the Thing, that he would not be seen here again in haste. So that, my Lords, (said his Grace) if this Man be insisted upon as a material Evidence, and that my Trial is to be delay'd till this Person is forth-coming, when am I to be tried ? I humbly move your Lordships, that you will come to some Resolution, that if this Matter be not immediately proceeded upon, so that I may be try'd before the ending of this Session, that the Impeachment shall fall.'

To which some few Lords cry'd, Well moved.

However, the Lords read and pass'd the Bill that same Day, for the Duty upon Glass, &c. and his Majesty came to the House and gave the Royal Assent to several Bills, and among the rest to the Bill for imprisoning Sir *Thomas Cooke*, Sir *Basil Firebrace*, *Bates* and *Craggs* ; and also to a Bill entitled, An Act for the King's most gracious and free Pardon, but with this Exception, amongst others,

• Except also all Persons who have been or shall be impeached in Parliament during this Session.'

And then his Majesty commanded the Lord Keeper to prorogue the Parliament to the 18th of *June*, and it was prorogued accordingly.

An Abstract of the Act for imprisoning Sir *Thomas Cooke*, Sir *Basil Firebrace*, Mr. *Bates*, and Mr. *Craggs*.

• The Preamble sets forth, That by several Informations and Examinations taken before Committees of both Houses,
it

* Note, The Duke had this Letter upon Wednesday, but took no notice of *Robert*'s being gone, or in his Power to be a Witness, either against or for him, until this Friday, May the 3d, after the Conference was had between the two Houses, to let the Lords know *Robert* was gone.

Parliament pro-
rogued.

it appears that there have been divers Practices to procure, Anno 7 Will.
by corrupt Means, a Charter, and an Act of Parliament re- III. 1695.
lating to the *East-India* Company ; and Sir T. C. Sir B. F.
C. B. and J. C. have been privy to the same ; and having
not upon their Examination hitherto made a full or satisf-
actory Discovery concerning the Premises ;

‘ To the end that their Persons and Estates may be se-
cured, so as to answer and be liable to Justice in Parliament,

‘ It is enacted, That the said Sir T. C. Sir B. F. C. B. and
J. C. shall be and are committed to the *Tower*, there to re-
main in Custody without Bail or Mainprize, until the End
of the next Session of Parliament, unless they shall sooner
be discharged by his Majesty by the Consent of the two
Houses.

‘ And it is enacted, that after the first of *May*, 1695, they
shall be disabled from aliening, settling, charging or encum-
bering any of their Lands, otherwise than by their last Wills ;
and also be disabled from conveying or granting any of their
personal Estate in trust for themselves, their Wives or Chil-
dren ; and from otherwise disposing of any of their personal
Estate, except for the Subsistence of themselves and their
Families, or for paying just Debts due or contracted before
the 23^d of *April*, 1695, and except perishable Goods.

‘ Provided, that the Act shall not extend to disable them
from disposing of any of their Estates by their last Wills.

‘ Provided, that Sir B. F. may give with his Daughter
in Marriage such Portion and Provision as he hath already
agreed to give, not exceeding twenty thousand Pounds.

A Proclamation was ordered for securing Monsieur *Robart* ;
it bears Date the 9th of *May*, and sets forth, Proclamation
for securing
Mr. Robart.

‘ That whereas, by Examinations and Informations upon
Oath before a Committee of both Houses of Parliament,
touching the unlawful and indirect giving, receiving, and
disposing of great Sums of Money, for procuring Charters
for the *East-India* Company, &c. it appeared, that Monsieur
John Robart was not only concern’d in the Receipt, but was
also able to give Evidence and make Proof of the Dispos-
al and Application of Part of the said Money ; yet, to avoid
Justice and the Manifestation of the Truth, and to render
all just and proper Methods of Prosecution ineffectual, he
hath withdrawn himself and absconds, intending, as supposed,
to escape beyond the Seas ; and setting forth, that the Lords
did address his Majesty to issue a Proclamation for securing
the said *Robart*.

‘ The King requires and commands all his loving Subjects
to discover and apprehend him, and carry him before some
Justice, &c. who are required to secure him, and give No-
tice

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tice to the Privy-Council or Secretaries, to the end he may be forth-coming, to be dealt with according to Law. And the King requires all Officers of the Ports, &c. to be careful in the Examination of all Persons that shall pass, or endeavour to pass the Seas : And, if they discover him, to cause him to be secured, and to give Notice, &c. And the King commands all his Subjects, at their Peril, that they do not conceal, but discover him, to the end he may be secured.*

This Proclamation was ordered the 3d, bears Date the 9th, came out the 11th, and was proclaimed the 13th of May.

Promotions.

The same Day the Parliament was prorogued ; the King declared in Council, That he had appointed the Archbishop of *Canterbury*, Sir *John Somers* Lord Keeper of the Great Seal, the Earl of *Pembroke* Lord Privy-Seal, the * Duke of *Devonshire* Lord Steward of his Majesty's Household, * the Duke of *Shrewsbury* one of his Majesty's Principal Secretaries of State, the Earl of *Dorset* Lord Chamberlain of his Household, and the Lord *Godolphin* first Commissioner of the Treasury, to be Lords Justices of *England*, for the Administration of the Government during his Majesty's Absence ; and at the same time Sir *William Trumbal* was constituted one of his Majesty's Principal Secretaries of State, in the room of Sir *John Trenchard*, lately deceas'd. The next Day the Lord *Henry Capel* was appointed Lord Deputy of *Ireland* ; and on the 8th of the same Month, his Majesty created *William de Nassau* Seigneur de *Zulestein*, a Baron, Viscount, and Earl of this Kingdom, by the Name and Stile of *William Zulestein*, Baron of *Enfield*, and Earl of *Rochford* ; and the Lord *Grey of Werke*, was also made a Viscount and Earl of this Kingdom, by the Stile of Viscount *Glendale*, and Earl of *Tankerwile*. Four Days after which the King set out for *Holland*.

Affairs Abroad.

Abroad, the taking of the Town and Castle of *Namur* in the Sight of the Enemy's Army, 100000 strong, was the most important Action ; after which his Majesty left the Army under the Care of the Elector of *Bavaria*, arrived in *England* October 10, and the next Day he called a Council, wherein he proposed the dissolving the present Parliament, which after a small Debate being resolved upon, a Proclamation was order'd to be publish'd for that purpose ; and for declaring the speedy calling another, to be holden at *Westminster* the 22d of *November* ensuing.

Accordingly, on that Day,

The

* They were both made Dukes, April the 30th, 1694, being but Earls before.

*The Third Parliament of King WILLIAM*Anno 7 Will.
III. 1695.

WAS held at *Westminster*; on which Occasion his Majesty made a Speech to both Houses, (to be found in *CHANDLER's History, Anno 7 Will. III. 1695, Page 1,*) and both Houses returned the Compliment with Addresses as usual. Then, proceeding to Business, they began with the Bill of Trials, which at last they brought to an issue, and of which an Abstract is to be seen in *CHANDLER's Hist. Anno 7 Will. III. 1695, Page 3, 4.*

The State of the Coin was what next engrossed the Attention of both Houses; on which important Point the Arguments *pro* and *con* are to be met with in *CHANDLER's Hist. Anno 7 Will. III. 1695, Page 4, 5, 6, 7.* All that can be added on that Subject being as follows:

January the 9th, The House proceeded upon Consideration of the Amendments made to the Bill for regulating of the Coinage, to which the Commons had disagreed.

A Clause agreed to by the Lords, to be added to the said Bill, that the Deficiencies of clipped or diminished Money may be ascertain'd and known, in order to the making them good at the Public Charge, was read. Question relating to the Coinage Bill pass'd in the Negative.

And after Debate thereupon, the Question was put, Whether to insist upon the said Clause?

It was resolved in the Negative.

*Dissentient**

Because, we conceive, that tho', in the Bill for new regulating the Coin of this Kingdom, the Commons have taken care to make good the Deficiencies of such clipped Monies only as were to be paid to the King on the Account of his Majesty's Revenues or Taxes, it was agreeable to common Equity and Honesty, that Provision should be made to supply the Deficiencies of all other clipped Money whatsoever, that were to pass in Payments among the Subjects of this Kingdom; and therefore we could not consent to the leaving out this Clause that had been added to the Bill by the Lords, who had so impartially taken care of the Benefit and Advantage of the Subject in general, so much for the Honour and Justice of the House of Peers. Protest thereon

Rocheſter, Marlborough, Kingſton, Clifford, H. London.*

Another Clause disagreed to by the Commons, That after the 2d of *February*, 1695, until the End of the next Session, 1697. M m m it

* Created Baron Churchill of Sandridge; Com. Hertf. by King James, II. May 14, 1685, Earl of Marlborough by King William, April 9, 1689, and Duke, by Queen Anne, Dec. 14, 1702.

Anno 7 Will. III. 695. it should be lawful to export any coined Money, without paying any Customs or Duties for the same, making due Entries thereof, as for other Merchandize, was read. And, The Question being put, Whether to insist upon the said Clause.

A second Question relating to the said Bill pass'd in the Negative.

It was resolved in the Negative.

Dissentient

Protest thereon.

Because we conceive it inconsistent with the Rules of common Prudence, when the Bill for new regulating the Coin of this Kingdom provides, That all the clipped Money should be re-coined up to the old Standard of the Mint, there should not be a Liberty granted by Law to export the Coin of this Kingdom, whilst the Occasion lasts of supporting so great an Expence for the Armies Abroad; and so long as the Exportation of Bullion is permitted, and that of Coin prohibited, it seems to us undeniable, that the Coin must be melted down again into Bullion, which, we conceive, will be more prejudicial to the Nation, and not so easily to be drawn back by a Ballance of Trade, as if that Wealth were preserved in the Coin of this Kingdom.

Rocheſter, Marlborough.

Sir R. Verney's Petition for a Writ of Summons,

The 17th, The House took into Consideration the Petition of Sir Richard Verney, Knt. presented to his Majesty, praying a Writ of Summons to Parliament, and his Majesty's Reference thereupon to this House.

And after some time spent in Debate, the Question was put, Whether the Petitioner, Sir Richard Verney, shall be heard at the Bar by his Council upon his Petition?

It was resolved in the Affirmative. Contents 47; Not Contents 20.

Leave having been asked and given to any Lord to protest, if the Question should be carried in the Affirmative, we whose Names are underwritten do protest, for the Reasons following:

Protest thereon.

1st, Because, as it seems to us, the Petitioner's Case has been already heard and adjudged in this House, upon his former Petition, whereby he claimed to have a Writ of Summons to Parliament, from the same Ancestor, by the same Pedigree, and under the same Writ of Summons, by which he makes his Claim in this Petition.

2^{dly}, Because the Judgment given by this House, upon Sir Richard Verney's former Petition, was not, that he had no Right to a Writ of Summons, by the Name of Lord Broke, but generally, that he had no Right to a Writ of Summons upon his Case, as stated in his Petition.

3^{dly},

3^{dly}, Because we conceive, it may tend infinitely to prejudice the Judicature of this House, and to weaken the Security that all Subjects have, by the Judgments of this great Court, if the Lords shall permit Judgment once given, in so solemn a manner, to be review'd.

Anno 7 Will.

III. 1695.

*Somerset, * Bradford, J. Bridgewater, Monmouth, Bolton, Culpeper, † Devonshire, Macclesfield, Manchester, Stamford, Suffolk.*

The 24th, *Hodie 3^a vice lecta est Billa*, entitled, An Act to prevent false and double Returns of Members to serve in Parliament.

Bill to prevent double Returns of Members pass'd.

The Question was put, Whether this Bill shall pass?

It was resolv'd in the Affirmative. Contents 27 : Not contents 20.

Leave having been asked and given to any Lords to protest, if the Question should be carried in the Affirmative, we whose Names are underwritten do protest, for the Reasons following:

By reason of a Clause in this Bill, which enacts in these Words following,

' In case that any Person or Persons shall return any Members to serve in Parliament for any County, City, Borough, Cinque-Port or Place, contrary to the last Determination in the House of Commons, of the Right of Election in such County, City, Borough, Cinque Port or Place, that such Return so made, shall, and is thereby adjudged to be a false Return'. To which we cannot agree, because, we conceive, that the confirming, by Act of Parliament, the Proceedings in another Place, which have never been examined here, is derogatory to the Dignity, and inconsistent with the Justice of the House of Peers. And, Protest thereon.

Because the enacting, that the last Determination of the House of Commons, in the Case of Returns of Members to sit in that House, shall be made the Rule for the future, seems to us, to erect a Court of Judicature there, which, by the Constitution of the Government, and the constant Practice of all Ages to this Day, hath never yet been allowed in the House of Commons, and may contribute to the introducing of evil Precedents, and be of dangerous Consequence hereafter.

Rocheſter, Granville, Bath, Jefferys, R. Ferrers, Tho. Meneven,

M m m 2

February

* Francis Lord Viscount Newport, created Earl of Bradford, May 12, 1693.

† William Earl of Devonshire, created Marquis of Hartington and Duke of Devonshire, May 12, 1693.

Anno 7 Will.
III. 1695.

Sir R. Verney's
Claim allow'd.

February the 13th, Council were this Day heard upon the Petition of Sir *Richard Verney*, Knt. praying a Writ of Summons to Parliament, as also his Majesty's Council.

And Consideration and Debate had thereof, the Question was put, Whether, by what hath been made appear to this House, the Petitioner, Sir *Richard Verney*, hath a Right to a Writ of Summons to Parliament, by the Name and Title of *Willoughby de Broke*?

It was resolv'd in the Affirmative.

To which the Lords, whose Names are underwritten, do dissent; for the Reasons following :

Protest thereon.

1st, Because it is apparent, by the antient Journals of the Lords House, that Sir *Robert Willoughby*, the Petitioner's Ancestor, and his Son and Grandson, sat in the House by the Name of Lord *Broke*, and never by Lord *Willoughby de Broke*.

2^{dly}, We conceive, no Lord, whose Ancestors were called to the Lords House, by Writ of Summons, can claim a Writ by Descent from those Ancestors, to sit in the House by any other Name than those Ancestors sat by.

3^{dly}, The House having, in the last Parliament, adjudged, that the Petitioner had no Right to a Writ of Summons to Parliament, when he petitioned to be summoned as Lord *Broke*, we conceive he can sit by no Title at all.

J. Bridgewater, Somerset, Culpeper, Bradford.

Assassination-
Plot.

February the 24th, The King came to the House, and in a Speech communicated the breaking out of the * Assassination-Plot; which Speech, together with the Proceedings thereon, are

* To murder the King, between Turnham-Green and Brentford, in a moorish Bottom, where are a Bridge and divers Roads crossing one another.

The 15th Day of February was the Day appointed to act this Royal Tragedy ; and the Conspirators having long kept two Men at Kensington, to watch the King's going to hunt, which was commonly every Saturday, one of these Orderly Men (for so they called them) brought them Word that the King did not go abroad that Day. This Disappointment was attended with the Fears of a Discovery, and thereupon Plouden, Kendrick, and Sherburn, the most timorous of all the Plotters, declin'd the Action, and withdrew themselves ; but Sir George Barclay, Sir William Perkins, Captain Porter, and Mr. Goodman, concluding the Design was not discover'd, from their not being taken up by the Government, they had another Meeting, and there resolv'd to execute their bloody Project, on Saturday the 21st of February. That Forenoon was spent in a tedious Expectation of the News, that the King was gone abroad ; but, instead of that Account, Keys, one of their Orderly Men at Kensington, brought Advice, that the Guards were all come back in a foam, and that there was a muttering among the People, that a damnable Plot was discover'd : This astonishing News alarm'd and dispers'd all the Conspirators, and drove them to shut for themselves by a speedy Flight.

Nor

are to be found in CHANDLER's *Hist. Ann. W. III. 1696*, Anno 7 Will.
 Page 19, &c. III. 1695.

March the 6th, *Hodie 3^a vice lecta est Billa*, entitled, An
 Act for continuing several Duties granted by former Acts
 upon Act for granting
 several Duties
 pass'd.

Nor were Keys's Report, and their Apprehensions groundless ; for the Plot, and every Step of it, from time to time, had been discover'd by Richard Fisher, and something of it by Mr. Grimes, to the Earl of Portland. Fisher had his Knowledge of it from Harrison the Priest, who took him to be one of their Party ; and Grimes had some dark Hints from another ; but both refusing to give his Lordship the Names of the Conspirators, little Credit was given to their Informations, till they were confirm'd by other Testimonies.

Mr Pendergrafs, who was wholly ignorant of the Design till he was sent for to London, being struck with Horror at the first Proposal of it, even then took up a Resolution to save his Majesty's Life ; tho', the better to manage his intended Discovery, he seem'd willing to engage in the hellish Enterprize. This Gentleman, on the 14th of February at Night, went, to the Earl of Portland, and being admitted to Privacy with his Lordship, tho' wholly a Stranger, without further Address, accosted his Lordship with this surprizing Request : ' Pray, my Lord, persuade the King to stay at home to-morrow ; for, if he goes abroad to hunt, he will be murder'd.' The same Night, tho' late, he was introduced to his Majesty, and discovered the whole Plot ; and his whole Deportment shewing him to be a Man of Honour, a great Strefs was laid upon his Information. The next Day after, Mr. De la Rue made the same Discovery, which he would have done before, but that his Friend Brigadier Lewson, who design'd to introduce him to the King, was gone out of Town. Upon his return to London, Brigadier Lewson acquainted the King, that Mr. De la Rue had inform'd him of a Design carrying on to assassinate his Majesty, and propos'd a Way, if the King thought fit, how all the Conspirators might be taken in Arms. Tho' Pendergrafs and De la Rue acted upon a separate Bottom, yet they punctually agreed in all the Circumstances of the Conspiracy ; which render'd their Discovery unquestionable : But yet both peremptorily refused to name the Conspirators, which might have been of fatal Consequence, if the Earl of Portland had not found the happy Expedient to prevent it, by persuading his Majesty to give himself the Trouble of examining them separately in his Closet. The King having accordingly examined Mr. Pendergrafs before the Earl of Portland, and the Lord Cuts, and Mr. De la Rue, before the same Earl and Brigadier Lewson, his Majesty shew'd himself extremely well satisfied in the Truth of their Discoveries ; and in a very obliging manner express his Resentment for their Generosity, in the great Care and Zeal they shew'd for the Preservation of his Life, and the Safety of the Kingdom ; and at last gave them such unanswerable Reasons, why, as Men of Honour and Lovers of their Country, they should compleat their Duty and Affection by naming the Conspirators, as quite overcame their former Unwillingness, and prevail'd with them to tell the Names of the Assassins, under the Promise of not being made use of as Evidences. But not many Days after, Mr. Pendergrafs hearing that Mr. Porter, who engaged him in the Plot, had, by an allowable Stratagem, been frighted into a Discovery, and accused him ; he thought himself discharged from any Obligation of Honour in concealing it, and therefore afterwards came in as an Evidence at Charnock's Trial.

The King having now a perfect Knowledge of the Conspiracy, caus'd his Proclamation to be issued out for the apprehending the Conspirators,

viz.

Anno 7 Will III. 1696. upon Wine and Vinegar, and upon Tobacco and *East-India* Goods, and other Merchandize imported, for carrying on the War against *France*.

The Question was put, Whether this Bill shall pass?
It was resolved in the Affirmative.

Dissentient

I dissent to the said Bill, by reason of a Clause therein, concerning the Price of Guineas, which, I conceive, is prejudicial to the Privileges of this House, and the Trade of the Country.

Abington.

Bill against
wearing wrought
Silks, &c.

April the 7th, Report was made from the Committee of the whole House, upon the Bill to restrain the wearing of all wrought Silks or stained Callicoes imported, of the Manufacture of *Persia* and the *East-Indies*, that they had heard Council for and against the Bill.

Ordered, That the House be put into a Committee again upon the said Bill on *Thursday* next.

Council to be
heard.

The Question was put, Whether Council and Witnesses shall be heard To morrow, upon the Subject-matter of this Bill?

It was resolved in the Affirmative.

Leave having been asked and given for any Lords to dissent, if the Question was carried in the Affirmative, we whose Names are underwritten do dissent, for the Reasons following:

Protest thereon.

1st, Because it was never known, that where a Bill was once referred to a Committee of the whole House, the House did hear Council and examine Witnesses to any Part of the Bill so committed, or when that Committee was still subsisting.

2dly,

viz the Duke of Berwick, Sir George Barclay, Major Lowick, George Porter, Capt. Stow, Capt. Walbanck, Capt. James Courtney, Lieutenant Sherburn, Brice Blaire, Dinant, Chambers, Boife, George Higgins, and his two Brothers, Sons to Sir Thomas Higgins, Davis, Cardell Goodman, Cramburn, Keys, Pendergrafs, Byerly, Trevor, Sir George Maxwell, Durance a Fleming, Christopher Knightly, Lieutenant King, Holmes, Sir William Perkins, and Rookwood; with a Promise of one thousand Pounds Reward for every Offender that should be taken, and brought to Justice. The Forces in England were ordered to be in readiness to march; a Train of Artillery was forthwith prepared to attend them; and Admiral Russel repair'd immediately to Deal, to take upon him the Command of the Fleet, which, by a particular Providence, had been detain'd many Weeks in the Downs by contrary Winds; and which was soon reinforced by other Men of War from the River, and twelve Dutch Ships from Spithead; insomuch that in five or six Days time, the Admiral had near sixty Men of War, with which he stood over directly to the Coasts of Calais and Dunkirk, no less to the Terror and Amazement of the Enemy, than to the Disappointment of their Designs; which were to invade England, as soon as they had received Intelligence that the fatal Blow was struck.

2dly, Because, we conceive, such Proceedings may occasion severe Reflections upon the Honour of this House, and may be of fatal Consequence, by inverting the Laws and Customs of Parliament, upon which our Constitution depends.

Anno 8 Will.
III. 1696.

Bolton, Stamford.

The 27th, The King put an End to the Session with a Speech to both Houses, (which see in CHANDLER's *Hist.* Anno 8 W. III. 1696, Page 24.) and May the 1st set out for *Holland*.

The burning of the *French* Magazines at *Givet*, and the *Affairs* abroad. bombarding of *Calais*, tho' not very effectually, were the principal Exploits of this Year; nothing considerable of either Side being even attempted in *Flanders*. The Duke of *Savoy*, indeed, struck up a separate Peace, and a Neutrality was vouchsafed to *Italy*.

October the 6th, The King returned, and on the 20th opened

The SECOND SESSION of his Third Parliament

WITH a Speech to both Houses, to be found in CHANDLER's *History*, Anno 8 Will. III. 1696, Page 25.

The Attainder of Sir *John Fenwick* for being concerned in the Assassination and Invasion-Plot, before mentioned, was of Sir John the principal Transaction of the Session, and the * Bill having passed the Commons, was sent up to the Lords, where it occasion'd long and vehement Debates, the House appearing to be equally divided in their Opinions; and even some of the best Friends to the present Government remain'd stiff against this extraordinary Proceeding; but a Court-Prelate (not without occasioning a severe Reflection on his Character) having made a long Speech to shew the Necessity of passing this Bill, he drew the casting Votes on his Side; and so the Bill was carried by a Majority of seven Voices only, there being sixty-eight for it, and sixty-one against it.

Which gave Rise to the following Protest. We whose Names are underwritten do dissent, for the Reasons following:

Because Bills of Attainder against Persons in Prison, and who are therefore liable to be tried by Law, are of dangerous Consequence to the Lives of the Subject, and, as we conceive, may tend to the Subversion of the Laws of this Kingdom.

Because

* See CHANDLER's *Hist.* Anno 8 Will. III. 1696. Page 30, &c.

Anno 3 Wm.
1696. III.

Because the Evidence of Grand Jurymen, of what was sworn before them against Sir *John Fenwick*, as also the Evidence of the Petty Jurymen, of what was sworn at the Trial of other Men, were admitted here; both which are against the Rules of Law; besides that they disagreed in their Testimony.

Because the Information of *Goodman* in Writing was received, which is not by Law to be admitted; and the Prisoner for want of his appearing Face to Face, as is required by Law, could not have the Advantage of cross-examining him.

And it did not appear by any Evidence, that Sir *John Fenwick*, or any other Person employed by him, had any way persuaded *Goodman* to withdraw himself; and it would be of very dangerous Consequence, that any Person so accused should be condemned; for by this Means a Witness, who shall be found insufficient to convict a Man, shall have more Power to hurt him by his Absence, than he could have if he were produced *viva voce* against him.

And if *Goodman* had appeared against him, yet he was so infectious in the whole Course of his Life, and particularly for the most horrid Blasphemy which was proved against him, that no Evidence for him could or ought to have any Credit, especially in the Case of Blood.

So that in this Case, there was but one Witness, *viz. Porter*; and he, as we conceive, a very doubtful one.

Lastly, Because Sir *John Fenwick* is so inconsiderable a Man, as to the endangering the Peace of the Government, that there needs no Necessity of proceeding against him in this extraordinary manner.

*Huntingdon, Thanet, N. Dunelm', R. Bath and Wells, Craven, Carlisle, Nottingham, H. London, Gil. Hereford, Willoughby, Kent, R. Ferrers, Granville, Fitzwalter, Halifax, Lindsey, P. Winton', Arundell, * Lempster, Hereford, Carnarvon, Jonat. Exon', Jeffreys, Northumberland, Abington, Hunsdon, Chandos, Scarsdale, Normandy, Weymouth, Tho. Mower', Dartmouth, Sussex, Northampton, Bath, Tho. Kesson', Bristol, Leeds, Rochester, Leigh, Wilby de Broke.*

The King gave the Royal Assent to this Bill Jan. the 11th, and on the 28th Sir *John* was beheaded on *Tower-Hill*.

[The Paper he gave the Sheriffs imported, 'That he died in the Communion of the Church of England, as established by Law, wherein he was brought up, and which he had ever profess'd, though he confess'd he had been an unworthy

* Sir Wm. Farmer, Bart. created Baron of Lempster, April 12, 1692.

unworthy Member of it, in not living up to the strict and excellent Rules thereof: That his Religion taught him his Loyalty, which he blest'd God was untainted; and he had ever endeavour'd in the Station wherein he had been placed, to the utmost of his Power, to support the Crown of *England*, in the true and lineal Course of Descent, without Interruption. That as for what he was now to die, he called God to witness, he went not to that Meeting in *Leaden-Hall Street*, with any such Intent as to invite King *James* by force to invade this Nation; nor was he himself provided with either Horse or Arms, or engaged for any Number of Men, or gave particular Consent for any such Invasion, as was most falsely sworn against him. He also declared, in the Presence of God, that he knew nothing of King *James's* coming to *Calais*, nor of any Invasion intended from thence, till it was publicly known; and that the only Notion he had, that something might be attempted, was from the *Thoulon* Fleet coming to *Brest*. That he received the Knowledge of what was contained in those Papers that he gave to a great Man, that came to him in the *Tower*, both from Letters and Messages that came from *France*; and that he (that great Man) told him when he read them to him, that the Prince of *Orange* had been acquainted with most of these things before. That he might have expected Mercy from that Prince, because he was instrumental in saving his Life; for when, about *April* 1695, an Attempt formed against him came to his Knowledge, he did, partly by Dissuasions, and partly by Delays, prevent that Design; which he supposed was the Reason that the last villanous Project was concealed from him. That if there were any Persons whom he had injured in Word or Deed, he heartily pray'd their Pardon; and begg'd of God to pardon those who had injured him; particularly those who had zealously fought his Life, and brought the Guilt of his innocent Blood upon this Nation, no Treason being proved upon him. That he return'd his most hearty Thanks to those noble and worthy Persons, who gave him their Assistance in opposing this Bill of Attainder, without which it was impossible he could have fallen under the Sentence of Death: And he prayed God to bless them and their Posterity; tho' he was fully satisfied they pleaded their own Cause, while they defended his. In the Conclusion, he prayed God to bless his true and lawful Sovereign, King *James*, the Queen and Prince of *Wales*, and restore him and his Posterity to this Throne again, for the Peace and Prosperity of this Nation, which could not possibly prosper, till the Government was settled upon a right Foot.

Anno 3 Will.
III. 1696.

1696.

N n n

January

Anno 9 Will.
III. 1696.

Bill for the fur-
ther regulating
Elections.

January the 23d, The Order being read for taking into Consideration the second reading of the Bill, entitled, An Act for the further regulating Elections of Members to serve in Parliament,

And several Petitions against the said Bill being also read, After Debate, the Question was put, Whether this Bill shall be read a second time?

It was resolved in the Negative. Contents 37 ; Not contents 62,

Dissentient

Protest thereon.

Because this Bill did provide, that none but natural-born Subjects of *England*, and Men of Estates, should be capable of being chosen to serve in Parliament, which we conceive most agreeable to the Constitution and true Interest of this Kingdom.

Faversham, Nottingham, Dartmouth, Thanet, Grayville, Cholmondley, Bath, Tho. Roffen, Jeffreys, Tho. Menou, Sandwich, Weymouth, Halifax, Normanby.

Bill to restrain
Stock-Jobbers.

April the 15th, Upon Report from the Committee of the whole House on the Bill to restrain the Number and ill Practices of Brokers and Stock-jobbers, that they had gone through the Bill with some Amendments,

The Question was put, Whether this House will agree to the Amendments made by the Committee in leaving out these Words, sixth Skin, thirty fifth and thirty sixth Lines (made and entered into or)?

It was resolved in the Negative. Contents 25 ; Not contents 34.

Dissentient

Protest thereon.

Because this Clause, without this Amendment, hath a Retrospect.

Normanby, Somerset, Clifford, Rochester, Grayville, T. Jermyn, Bradford, Marlborough, Bath.

The Session
closed.

The next Day the King put an End to the Session with a Speech, which see in CHANDLER's *History*, Anno 9 Will. III. 1697, P. 73, and the 26th embarked for *Holland*; having a few Days before created the new Lord Chancellor *Somers* Baron of *Evesham*, in the County of *Worcester*; and *Edward Russel*, Esq; the Admiral, Baron of *Shingey*, Viscount *Barfleur*, and Earl of *Orford*, in the County of *Suffolk*.

Congress of
Ryswich.

During the Recess, a Congress was opened at *Ryswich* for a general Peace, and Preliminaries were agreed upon; but many Difficulties arising, the Earl of *Portland* demanded a private Conference with Marshal *Boufflers*, which was agreed to and held in the open Field, at an equal Distance from the

two

two Camps; after which they retired to the Suburbs of *Hull*, and in one Hour adjusted all which, at *Ryſwick*, had hitherto been found infurmountable. This was done *July* the 26th, *N. S.* Anno 9. Will.
III. 1696.

Auguſt the 2d, The Paper then agreed upon was ſigned. The 3d the Earl was diſpatched to the Congreſs, to ſignify that his Majeſty's Concerns were all adjusted: And *Septem-ber* the 20th, the Peace was ſigned in form, between *France* and *England*, *Spain* and *Holland*, (the Miniſters of the Empire proteſting againſt it) agreeable to the following Abſtract.

The firſt three Articles were Matter of Form.

‘ 4. And ſince the moſt Chriſtian King was never more deſirous of any thing, than that the Peace be firm and inviolable, the ſaid King promiſes and agrees for himſelf and his Succeſſors, that he will on no Account whatſoever diſturb the ſaid King of *Great-Britain* in the free Poſſeſſion of the Kingdoms, Countries, Lands or Dominions which he now enjoys, and therefore engages his Honour, upon the Faith and Word of a King, that he will not give or afford any Aſſiſtance; directly or indirectly, to any Enemy or Enemies of the ſaid King of *Great Britain*; and that he will, in no manner whatſoever, favour the Conſpiracies or Plots which any Rebels, or ill-diſpoſed Perſons, may in any Place excite or contrive againſt the ſaid King; and for that end promiſes and engages, that he will not aſſiſt with Arms, Ammunition, Ships, Proviſions or Money, or in any other way, by Sea or Land, any Perſon or Perſons who ſhall hereafter, under any Pretence whatſoever, diſturb or moleſt the ſaid King of *Great Britain* in the free and full Poſſeſſion of his Kingdoms, Countries, Lands and Dominions. The King of *Great-Britain* likewise promiſes and engages for himſelf and his Succeſſors, Kings of *Great Britain*, that he will inviolably do and perform the ſame towards the ſaid moſt Chriſtian King, his Kingdoms, Countries, Lands and Dominions.

‘ 5. That there be a free Uſe of Navigation and Commerce between the Subjects of both the Kings, as was formerly in the Time of Peace, and before the Declaration of the late War.

‘ 6. That the ordinary Adminiſtration of Juſtice ſhall be reſtored and ſet open, throughout the Kingdoms and Dominions of both Kings, ſo that it ſhall be free for all the Subjects of either, to claim their Rights, &c. according to the Conſtitutions and Statutes of each Kingdom.

‘ 7. The moſt Chriſtian King ſhall reſtore to the King of *Great-Britain*, all Countries, Iſlands, &c. whereſoever ſituated, which the *Engliſh* did poſſeſs before the Declaration of this preſent War. And in like manner the King of

N n n 2

Great-

Anno 9 Will.
III 1696.

Great-Britain shall restore to the most Christian King all Countries, Islands, &c. wheresoever situated, which the *French* did possess before the said Declaration of War. And this Restitution shall be made on both Sides, within the Space of six Months. And to that end, immediately after the Ratification of this Treaty, each of the said Kings shall cause to be delivered to the other, or to Commissioners authorised in his Name for that purpose, all Acts of Concession, Instruments, and necessary Orders, du'y made in proper Form ; so that they may have their Effect.

8. Commissioners shall be appointed on both Sides, to examine and determine the Rights and Pretensions which either of the said Kings hath to the Places situated in *Hudson's Bay* ; but the Possession of those Places which were taken by the *French*, during the Peace that preceded this present War, and were retaken by the *English* during this War, shall be left to the *French*, by virtue of the foregoing Article. The Capitulation made by the *English* on the 5th of *September*, 1696, shall be observed, according to its Form ; the Merchandises therein mentioned shall be restored ; the Governor of the Fort taken there shall be set at Liberty ; the Differences arising concerning the Execution of the said Capitulation, and the Value of the Goods there lost, shall be determined by the said Commissions, who, immediately after the Ratification of the present Treaty, shall be invested with sufficient Authority for settling the Limits of the Lands to be restored on either side, by virtue of the foregoing Article, and likewise for exchanging of Lands, as may conduce to the mutual Interest of both Kings.

And to this end the Commissioners, so appointed, shall within the Space of three Months from the Time of the Ratification of the present Treaty, meet in the City of *London*, and within six Months, to be reckoned from their first Meeting, shall determine all Differences which may arise concerning this Matter ; after which, the Articles the said Commissioners shall agree to, shall be ratified by both Kings, and shall have the same Force, as if they were inserted Word for Word in the present Treaty.

9. All Letters, as well of Reprisal as of Marque and Counter-Marque, which hitherto have for any Cause been granted on either side, shall remain null and void ; nor shall any the like Letters be hereafter granted by either of the said Kings against the Subjects of the other, unless it be first made manifest, that Right hath been denied ; and it shall not be taken for a Denial of Right, unless the Petition of the Person, who desires Letters of Reprisal to be granted to him, be first shewn to the Minister, residing there on the

Part

Part of the King, against whose Subjects those Letters are desired; that within the Space of four Months, or sooner, he may enquire into the contrary, or procure that Satisfaction be made with all Speed from the Party offending, to the Complaint. But if the King, against whose Subjects Reprisals are demanded, have no Minister three, Letters of Reprisal shall not be granted, till after the Space of four Months, to be reckoned from the Day on which his Petition was presented to the King, against whose Subjects Reprisals are desired.

Ann 69 Will.
III. 1696.

‘ 10. For cutting off all matter of Dispute which may arise concerning the Restitution of Ships and Merchandises which either Party may complain to be taken from the other, in Countries, and on Coasts far distant, after the Peace is concluded, and before it be notified there; all Ships and Merchandises, which shall be taken by either side, after the Signing and Publication of the present Treaty, within the Space of twelve Days in the *British* and *North* Seas, as far as the Cape *St. Vincent*; within the Space of ten Weeks beyond the said Cape, and on this Side of the *Equinoctial Line*, as well in the Ocean and *Mediterranean Sea*, as elsewhere; Lastly, Within the Space of six Months beyond the said Line throughout the whole World, shall belong unto the Possessors, without any Exception or further Distinction of Time or Place, or any Consideration to be had of Restitution.

‘ 11. But if it happens thro’ Inadvertency, or any other Cause whatever, that any Subject of either of the said two Kings, shall do or commit any thing by Land or Sea, or on fresh Waters, any where, contrary to the present Treaty, or that any particular Article thereof is not fulfilled; this Peace and good Correspondence between the said two Kings, shall not on that Account be interrupted or infringed, but shall remain in its former Force and Vigour, and the said Subject only shall answer for his own Fact, and undergo Punishment to be inflicted, according to the Custom and Law of Nations.

‘ 12. But if (which God forbid) the Differences now composed between the said Kings should at any time be renewed, and break out into open War, the Ships, Merchandises, and all kind of moveable Goods of either Party, which shall be found to be and remain in the Ports and Dominions of the adverse Party, shall not be confiscated or brought under any Inconveniency, but the whole Space of six Months shall be allowed to the Subjects of both the said Kings, that they may carry away the foresaid Goods, and any thing else that is theirs, whither they think fit, without any Molestation.

‘ 13. For what concerns the Principality of *Orange*, and other Lands and Dominions belonging to the said King of
Great-

Anna's Will
III. 1696.

Great-Britain, the separate Article of the Treaty of *Nimeguen*, concluded between the most Christian King and the *States-General* of the United Provinces the 10th Day of *August* 1678, shall, according to its Form, have full Effect, and all Things that have been innovated and altered, shall be restored as they were before. All Decrees &c. of what kind soever they be, without Exception, which are in any manner contrary to the said Treaty, or were made after the Conclusion thereof, shall be held null and void, without any Revival or Consequence for the future: And all Things shall be restored to the said King in the same State, and in the same Manner, as he held and enjoyed them before he was dispossessed thereof in the Time of the War, which was ended by the said Treaty of *Nimeguen*, or which he ought to have held and enjoyed according to the said Treaty. And that an End may be put to all Trouble, Differences, Processes and Questions, which may arise concerning the same, both the Kings will name Commissioners, who, with full and summary Power, may compose and settle all these Matters. And soasmuch as by the Authority of the most Christian King, the King of *Great-Britain* was hindered from enjoying the Revenues, Rights and Profits, as well of his Principality of *Orange* as of other his Dominions, which, after the Conclusion of the Treaty of *Nimeguen*, until the Declaration of the present War, were under the Power of the said most Christian King, the said most Christian King will restore, or cause to be restored in reality, with Effect, and with the Interest due, all those Revenues, Rights and Profits, according to the Declarations and Verifications that shall be made before the said Commissioners.

‘ 14. The Treaty of Peace concluded between the most Christian King, and the late Elector of *Brandenburg*, at *St. Germains in Laye*, the 29th of *June* 1679, shall be restored in all its Articles, and remain in its former Vigour between his sacred most Christian Majesty, and his Electoral Highness of *Brandenburg*.

‘ 15. Whereas it will greatly conduce to the public Tranquillity that the Treaty be observed, which was concluded between his sacred most Christian Majesty, and his Royal Highness of *Savoy*, on the 9th of *August* 1696, it is agreed that the said Treaty shall be confirmed by this Article.

‘ 16. Under this present Treaty of Peace shall be comprehended those who shall be named by either Party, with common Consent, before the Exchange of Ratifications, or within six Months after. But in the mean time, the most serene and mighty Prince *William*, King of *Great-Britain*, and the most serene and mighty Prince *Lewis*, the most
Christian

Christian King, gratefully acknowledging the sincere Offices and indefatigable Endeavours, which have been employed by the most serene and mighty Prince *Charles* of *Sweden*, by the Interposition of his Mediation, and bringing this happy Work of the Peace, with the Divine Assistance, to the desired Conclusion; and to shew the like Affection to him, it is by Consent of all Parties stipulated and agreed, that his said sacred Royal Majesty of *Sweden*, shall, with all his Kingdoms, Countries, Provinces and Rights, be included in this Treaty, and comprehended in the best manner, in the present Pacification.

Anno 9 Will.
III. 1697.

‘ 17. Lastly, The solemn Ratifications of this present Agreement and Alliance made in due Form, shall be delivered on both Sides, and mutually and duly exchanged at the Royal Palace at *Ryfwick*, in the Province of *Holland*, within the Space of three Weeks, to be reckoned from the Day of the Subscription, or sooner, if it may be.’

*Signed by the English and French
Ambassadors, and by the Mediator.*

The END of VOL. I.





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